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CANADA'S NATIONAL POLICY

IN the thirty-five years from 1879 to 1914, and in particular from 1879 to 1897, there was no phrase in political discussion in Canada in more frequent use than the phrase, "the National Policy of the Dominion." In the earlier part of the period the term was used to describe the imposition of duties in the Dominion tariff to protect home industries against all outside competition, the paying of bounties from the Dominion treasury to aid the upbuilding of industry, and the attempt to secure reciprocity agreements with the United States and other non-British countries with a view to extending the export trade of the Dominion.

In the decade before the war the phrase had come to have a much more comprehensive meaning. It included, as of old, protectionist duties in the interest of Canadian industries. Until 1911 it included lavish bounties to iron and steel companies in Nova Scotia, Quebec and Ontario. But it also included the wide immigration propaganda for the peopling of the provinces west of the Great Lakes, and the development of the national grain route, by rail, lake and canal, from the grain-growing provinces to tidewater ports on the Atlantic.

The Development of the National Policy

There were protective tariffs in Canada twenty years before the phrase "National Policy" was brought into general use by the Macdonald government in 1879. The United Provinces of Upper and Lower Canada had been under a protective tariff for eight or nine years before Confederation. In British Colum-

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bia a protective tariff was in operation from 1867 until the province came into Confederation in 1871.

The Pacific Coast province, like the United Provinces and the Maritime Provinces, had also agitated for reciprocity with the United States; and while it was still an independent isolated colony, British Columbia had offered bounties for the encouragement of the iron and woolen industries, thus anticipating a part of the National Policy that was not adopted until 1883, when bounties to encourage the production of pig iron were first paid from the Dominion treasury.

The first attempt to establish the National Policy for the Dominion was made in 1870 by the Macdonald government of 1867–71. At that time the proposed National Policy included only protective tariff duties on some Canadian products, and an offer, embodied in the tariff, of reciprocity with the United States. In this tariff of 1870 there were no increases in the duties on manufactured goods. These duties then stood at fifteen per cent, as imposed by the tariff of the United Provinces enacted in 1866. In 1866 Confederation was in sight, and the duties were made less protective than in the tariffs from 1859 to 1866 in order to ease the way into Confederation for the Maritime Provinces, in which there had never been any protective duties.

The duties in the first National-Policy tariff were on coal, salt, wheat, flour and hops. In the tariff of 1866 all these articles were on the free list. They were made dutiable in the tariff of 1870 in accordance with a theory of Macdonald's that to succeed in negotiating a second treaty of reciprocity with the United States, Canada must convince the Washington government that it was within her power to restrict American trade with the Dominion. The tariff of 1870 produced no results at Washington. There were no overtures from the United States for a renewal of the trade relations of 1854–1866, relations that gave Canada advantages under the Elgin-Marcy treaty. The duty of fifty cents a ton on anthracite and bituminous coal, imposed in the interest of the bituminous coal mines of Nova Scotia, worked great hardship on the people of Montreal and of the province of Ontario. Incidentally, it seriously cur-

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tailed what had previously been a large trade in coal between British ports and Halifax, St. John, Quebec and Montreal. Vessels from English ports—steamers and sailing ships—had carried coal as ballast. It was a trade in every way advantageous, for it resulted in comparatively cheap coal for these Canadian tidewater cities, and it tended to reduce freight rates on grain, flour and lumber from Canada to the United Kingdom.

Ontario in 1870 was the only wheat-growing province and the only province in which commercial milling was established. It had long been exporting wheat and flour to the United Kingdom. The new duties were intended to encourage grain growing and milling by compelling the Maritime Provinces to draw their supplies from Ontario. Ontario was to be forced to use the coal from a province eleven hundred miles from its western border, and in return for this favor to the coal owners of Cape Breton, the people of Nova Scotia, New Brunswick and Prince Edward Island were to be forced to buy their wheat and flour from Ontario. Both in Ontario and in the Maritime Provinces the new duties provoked much popular dissatisfaction, especially in the Maritime Provinces, where a protectionist tariff was regarded as a breach of the compact at Confederation. At this time Ontario was the only province east of the Rocky Mountains in which the protectionist movement, begun in 1857, had made any appreciable headway, and even in Ontario in 1870 it had secured support only in a few manufacturing centers.

There was so much agitation in Ontario against the coal duty, and in the Maritime Provinces against the duties on wheat and flour, that in 1871 Macdonald was forced to abandon the National Policy of 1870, and it was 1879 before the Dominion was really committed to a high protective tariff, and 1883 before a bounty system was adopted. A Conservative government was responsible for the unsuccessful attempt to establish the National Policy in 1870. The Conservatives were also responsible for the system adopted in 1879. From 1878 to 1896 the Liberals were in opposition at Ottawa. During these eighteen years they continuously denounced the tariff policy of the Conservatives, and they were equally vigorous and persist-

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ent from 1883 to 1896 in their denunciation of the payment of bounties for the encouragement of the iron and steel industries. In 1897 the Liberals, who were in power from 1896 to 1911, adopted both the tariff and the bounty policy of the Conservatives. They greatly extended the bounty system. In tariff policy they made an innovation of far-reaching political significance. They established a preferential tariff for imports from the United Kingdom, and thereby forged a new link of empire.

The British Preferential Tariff

The reductions in the tariff in favor of imports from the United Kingdom were made gradually in three years from 1897 to 1900. From July 1900 to June 1904, all British imports were admitted at two-thirds of the duties charged on imports from non-British countries. But the Canadian manufacturers, through their national association, loudly protested against this new competition from British manufactures; and in 1904 and 1907—particularly in 1907, when there was a general revision of the tariff—the preference was curtailed, and the tariff made more protective against British imports. The principle of a uniform reduction of one-third in favor of British imports was abandoned in 1907, and a plan adopted of a tariff in three divisions—the British preferential tariff, an intermediate tariff for countries making concessions for imports from the Dominion, and a general tariff applicable to countries making no tariff concessions to Canada. In 1915 the war-tariff act added seven and a half per cent to the duties in the general and intermediate tariffs and five per cent to the duties in the British preferential tariff, and greatly curtailed the free list.

No general principle was followed in 1907 in determining rates in the British preferential tariff. Consideration was given to the opposition of Canadian manufacturers of competing goods, who demanded adequate protection against all comers—British or non-British. While the tariff on British imports was usually fixed at rates below those in the intermediate or general tariff, much care was exercised that in the British preferential tariff there should be adequate protection for all Canadian

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manufacturing interests. From 1897 to 1907 the preferential tariff had stimulated trade between the United Kingdom and Canada. Particularly was this the case as regards woolens and other textiles, some products of the secondary stages of the iron and steel industries, and glass, earthenware and furniture. It was this increase in trade, and the efforts of British manufacturers to avail themselves of the lower duties, that impelled the Canadian manufacturers to protest. They waged a continuous propaganda against the British preference in their newspaper organs. They protested to parliament in 1904 and 1905; and in the winter of 1905–6 scores of manufacturers appeared before the tariff commission to demand more protection against competition than was afforded under the preferential tariff of 1897. They declared that protection against British manufacturers was as essential to the success and prosperity of Canadian industries as protection against the United States.

The effect of the much-curtailed preferential tariff in encouraging exports to Canada from the United Kingdom between 1907 and 1914 was much less obvious than the effect of the tariff of 1897. There was some increase in the seven years before the war; but it was an increase which, when measured in custom-house valuations, afforded little ground for jubilation in manufacturing communities in the United Kingdom, especially in view of the wide-spread enthusiasm with which the original preferential tariff was received in Great Britain, the enormous increase in emigration from Great Britain to Canada in the twelve years preceding the war, the wide-spread prosperity in the Dominion from 1904 to 1912, and the great increase in the price of manufactured goods between 1900 and 1914.

In the seventeen years from 1897 to the beginning of the war the political effect of the preferential tariff, as framed in 1897 and revised in 1907, was much more important than the economic effect. In Canada, two political developments followed the enactment of the preference. From 1897 to 1911 it was denounced by the Conservatives, who in those years were in opposition. Their objections were that Canadian manufacturers needed protection against all comers, and that Great

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Britain had given Canada no tariff concessions in return for the concessions in the Dominion tariff. As the United Kingdom was on a free-trade basis from 1846 to the beginning of the war it was not possible for any British government to offer Canada an equivalent for the preference without effecting a revolution in the British fiscal system. Many increases were made in the tariff at Ottawa after the Conservatives were returned to power at the general election of 1911. These increases, made between 1912 and 1914, were intended to afford more protection to Canadian manufacturers or to the fruit growers of British Columbia. As soon as the Conservatives were in office, however, they ceased to criticize the British preferential tariff; and from 1911 to the outbreak of the war they made no effort to secure from the British government any *quid pro quo* for the lower duties for imports from the United Kingdom established by the preferential tariff of 1907. They accepted the policy of the Liberals as regards the preference, just as the Liberals had accepted the National Policy of the Conservatives in the preceding fifteen years.

Advocates of free trade in Canada welcomed the preferential tariff of 1897 and protested against its curtailment in 1904 and 1907. The only consumers in Canada who are organized and articulate are the grain growers of Manitoba, Saskatchewan and Alberta, and the farmers of Ontario. An inquiry by a commission composed of three members of the Dominion cabinet preceded the revision of 1907. At the public sessions of this commission of 1905–6, representatives of the grain growers' and farmers' organizations made protests against the curtailment of the preference in 1904, and urged that rates even lower than those in force from 1904 to 1907 should be enacted. No heed was given to their pleas at the revision of 1907. All the changes then made in the British preference were in a contrary direction. In December 1910 the plea for lower duties on British imports was repeated—this time by a deputation a thousand strong, of grain growers from the western provinces and farmers of Ontario, who went to Ottawa to interview Laurier, the premier of the Liberal government of 1896–1911. "We favor the principle of the British preferential tariff," read the

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memorial submitted to the premier, "and urge an immediate lowering of the duties on all British goods to one-half the rates charged in the general tariff schedule, whatever they may be."[1]

No action in the direction urged by the grain growers was taken by the Liberal government between the date of the deputation and the incoming of the Borden government in October 1911. But the organized grain growers in the prairie provinces and the farmers in Ontario, who in December 1916 numbered over sixty thousand, continued their agitation for lower duties on British imports. An independent movement in Dominion politics was launched by the organizations at the end of 1916—a movement to secure direct representation of grain growers and farmers in the house of commons; and in the national platform adopted by the grain growers' associations at their provincial conventions in the winter of 1916–17 there was a demand for an extension of the British preference as a means of strengthening the bonds between Canada and Great Britain, and of bringing about a reduction in the cost of living in Canada.[2]

The innovation in tariff legislation at Ottawa in 1897—an innovation in which Canada led the oversea dominions—thus resulted in raising a new issue in Dominion politics, and the persistence with which the grain growers agitated for an extension of the preferential tariff widened the political gulf between the manufacturing interests of Ontario, Quebec, Nova Scotia and New Brunswick, and the agrarian interests of Ontario and of the thousand-mile stretch of country that lies between the Lake of the Woods and the Rocky Mountains.

A Tariff War with Germany

For the Empire at large the preferential tariff of 1897 had quite far-reaching consequences. Germany claimed that as an empire with a treaty of commerce with Great Britain according it favored-nation treatment, it was entitled to send its exports to Canada on the same terms as were conceded under the pref-

[1] Report of Proceedings in the Hearing by Members of the Government of the Farmers' Delegation, Dec. 16, 1910, Ottawa, 1911, p. 38.

[2] *Cf.* "A National Political Platform," *Grain Growers' Guide*, Winnipeg, Dec. 13, 1916.

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erential tariff to imports from Britain. In order to leave Canada and other dominions with responsible government free to make their own commercial arrangements with one another and with non-British countries, Great Britain in July 1897—only three months after the new tariff had been enacted at Ottawa—denounced her commercial treaties with Germany, Belgium and several other European countries. This action completed the fiscal and commercial freedom of Canada and of all the other oversea dominions; for heretofore, while the dominions had had no part in the negotiation of commercial treaties made by Great Britain, they were bound by their provisions.

Canada, since 1898, has not been affected by any treaty made by Great Britain unless the Ottawa government desires the Dominion to be included in its provisions. In 1858–59, when Galt secured for the legislature of the United Provinces power to enact tariffs without interference from Great Britain, the same right accrued as a matter of course to all the other British colonies in which parliamentary and cabinet government was established. In the same way, in 1897, when parliament at Ottawa enacted the preferential tariff and the government was successful in its plea to the government in London to free Canada from the existing commercial treaties, the freedom was extended to all the colonies that are now of the oversea dominions.

Until July 1898 imports from Germany were admitted into Canada under the preferential tariff. Thereafter imports from Germany paid the duties of the general tariff—the same duties as were paid on imports from the United States. Germany resented this situation. Belgium agreed to a new treaty which left Canada and the other dominions freedom of action. Germany flatly refused a new treaty with Great Britain to replace the treaty of 1865–98. She maintained that what the oversea dominions conceded to Great Britain must also be conceded to the German Empire. A position described by Lansdowne, then secretary for foreign affairs in the Salisbury government, as serious, developed out of Germany's opposition to the new commercial relations between Great Britain and the dominions. Lansdowne told the House of Lords on June 29, 1903:

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It is not merely that we find Canada liable to be made to suffer in consequence of the differential treatment which the Canadian government has afforded to us, but it was actually adumbrated in an official document that if other colonies acted in the same manner as Canada, the result might be that we, the mother country, would find ourselves deprived of most-favored-nation treatment.

English commentators on the action that Germany took after the British government at the instance of Canada had ended the treaty of 1865, wrote:

Thus Germany first demanded to share in the Canadian preference. If Canada gave lower duties to her own mother-land, Germany must enjoy the same lower duties. And when that attempted intrusion into the domestic life of the British Empire was forbidden, we had the threat that England would be punished in her trade with Germany if she did not put these naughty little colonies in their places.[1]

The upshot of Germany's procedure was that for the first time since England adopted free trade in 1846, one dominion of the British Empire was engaged from 1903 to 1910 in a tariff war. Germany was the aggressor. Until July 1898 Canadian exports to Germany were admitted under the German minimum tariff. As soon as the treaty between Great Britain and Germany had expired, and exports from Germany to Canada were no longer admitted under the duties of the British preference, Germany put her maximum tariff into force against Canada. "We did not," said Fielding, minister of finance in the Laurier government of 1896–1911, "deny to Germany favored-nation treatment. We were willing to give her every consideration that we gave to any foreign government. But she took offense because we would not treat her as we did the United Kingdom."[2] The Dominion was slow to retaliate. The government at Ottawa conceived that there was some misunderstanding on the part of Germany. By diplomatic correspondence, and also through the German consulate at Montreal, efforts were made to assure Berlin that Canada was giving to

[1] P. and A. Hurd, The New Empire Partnership, p. 228.

[2] H. C. Debates, Dec. 14, 1907.

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Germany everything that it gave to any foreign country; that it was conceding to Germany what it conceded to France, although France, with which Canada had a treaty of commerce, gave valuable concessions in return and Germany conceded nothing. All that Canada asked was that her exports to Germany should again come under the minimum tariff. This Germany refused. Her maximum tariff was put into force against Canada in 1898. It was October 1903 before Canada retaliated. Then by act of parliament a surtax of one-third of the duties of the general tariff was imposed on imports from Germany.

The result of the surtax was that on many of the German imports, duties in the years from 1903 to 1910 ranged from fifty to sixty per cent, the highest tariff duties ever in force in Canada. There was at once a great reduction in Germany's export trade to Canada. The author of a booklet in praise of the Liberal government wrote:

> The government scored a triumph, not only for Canada but for the whole British Empire. The trade of Germany with us has fallen off fifty per cent since the surtax was imposed. The German attitude was an attempt to thwart the movement for preferential trade relations within the Empire, which, if submitted to, would perhaps have been the deathblow of the movement.[1]

Germany in 1903 had an export trade with Canada of a total value of 35,835,000 marks. By 1905 this trade had declined to 21,775,000 marks. During the years of the tariff war, Canada was exceedingly prosperous. Immigration in these seven years was larger than in any previous period in the history of the Dominion, and in each of these years there were large increases in the export trade of the United Kingdom and the United States to Canada. In 1910, the last year of the tariff war, imports from the United Kingdom were of the value of $245,000,000 and from the United States of $352,000,000. In this year the value of the imports from Germany was only ten and a half million dollars, despite the fact that the tariff war came to an end four months before the close of the Canadian fiscal year.

[1] Handbook on Canadian Politics, Ottawa, 1904, p. 39.

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Germany slowly realized that only loss of trade was resulting from persistence in the tariff war; and in February 1910, on overtures from Berlin, the tariff war ended in a peace without victory for Germany. Fielding, when he announced in the house of commons that the tariff war was at an end, said:

It is worth remembering that we do not give Germany favored-nation treatment. We are not giving Germany all that we were willing to give Germany at a previous stage of the discussion. We are refusing Germany the advantages of the French treaty.[1] The arrangement is that we give up the surtax only. Germany in return for our abandonment of the surtax gives us the benefit of her lowest tariff upon a specified list of articles, which in the judgment of the government are the most important articles to the Canadian shipper.[2]

Notwithstanding the treaty of commerce of 1865–1898 between Great Britain and Germany—a treaty in which there was a clause providing that goods exported from Germany to Canada should not be chargeable with higher duties than were imposed on goods exported from the United Kingdom to Canada—at no time from 1858 to 1897 had Germany any advantage over the United States in the export trade to Canada. The United States enjoyed special advantages from 1854 to 1866 under the Elgin-Marcy treaty. Since 1883 France has continuously enjoyed a measure of special treatment in Canadian tariffs, owing to the existence of commercial treaties between the Dominion and the French Republic. With these exceptions, until 1897 all countries, British and non-British, exported goods to Canada on the same terms. There were no tariff concessions to countries with favored-nation treaties with Great Britain, because not until tariffs for the protection of Canadian industries had been in operation in the United Provinces from 1858, and in the Dominion from 1867 to 1897, was any concession made in Canadian tariffs for imports from the United Kingdom.

No concession was asked by Canada from the United Kingdom when the original preferential tariff was framed. "Eng-

[1] A treaty of commerce between Canada and France was negotiated in 1909, and went into effect on February 2, 1910.

[2] H. C. Debates, Feb. 16, 1910.

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land," said Fielding, when he announced the innovation of 1897 to the house of commons, "has dealt generously with us in the past. She has given us liberty to tax her wares, even when she admits ours free; and we have taxed them to an enormous degree."[1] Canada also asked nothing in return for the preference to British crown colonies in which there were tariffs for revenue only; and by 1913 twenty-five crown colonies were participating in the concessions of the British preference of 1907.[2] The dominions with protective tariffs had to make reciprocal concessions before they could share in the preferential rates conceded to the United Kingdom. New Zealand, Australia, the Union of South Africa—all made terms with Canada. With the nine West Indian colonies (Trinidad, British Guiana, Barbados, St. Lucia, St. Vincent, Antigua, St. Kitts, Dominica and Montserrat) Canada in 1913 entered into an elaborate and liberal agreement for reciprocal trade. The result of all these various arrangements was that in the year preceding the war, the United Kingdom, four dominions, and thirty-four crown colonies were linked together under a far-reaching tariff arrangement based on the innovation made at Ottawa in 1897.

There is no country in the world that advertises more systematically or on a more lavish scale than Canada. It expended nearly fifteen million dollars in the years from 1897 to 1914 in advertising itself in the United Kingdom, the United States, and the countries of continental Europe—in making known the opportunities that awaited immigrants in the Dominion. The preferential tariff of 1897 advertised Canada all over the English-speaking world better than all its immigration propaganda. It enormously supplemented the lavish outlay on printer's ink of the Dominion government. Magna Charta, for seven centuries England's great standing advertisement, was not an act of parliament. With Magna Charta thus excluded, it can be said of the preferential tariff act of 1897 that it obtained for Canada more free and appreciative advertising—oral as well as printed—than any other country ever obtained by means of any act passed by its legislature, parliament or congress.

[1] H. C. Debates, Apr. 22, 1897.

[2] *Cf.* Customs Tariff, 1907, Ottawa, 1914, appendix, pp. 18, 212.

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Austria and Italy demurred to Great Britain's policy of 1898, of freeing the dominions from obligations under the old treaties of commerce; but Germany, with whom both Austria and Italy were in alliance, was the only country that persistently and actively objected to the restriction by the government at Ottawa of the preferential tariff to the United Kingdom and colonies of the British Empire. The United States, France, Belgium, Sweden, Norway, Denmark, Colombia, Mexico and Costa Rica accepted the new status of the British dominions. Italy and Austria created diplomatic obstacles to the new fiscal and commercial freedom of Canada and the other dominions, obstacles which had not been removed up to the time war began in August 1914. But Germany was the only country that embarked on a tariff war with Canada or threatened commercial retaliation against the United Kingdom. Germany protested, and protested loudly. It was of no avail as far as Canada was concerned; and the tariff war would have gone on indefinitely if Germany had not capitulated in 1910.

Great Britain, when she denounced her commercial treaties in 1898, had no commercial treaty with the United States; and it was not until 1914 that notice was formally given to the government at Washington by the foreign office at Whitehall of the new diplomatic status that had accrued to Canada and the other four dominions as a result of the important changes that had come in the train of the preferential tariff of 1897. At Washington there were no objections to the preferential tariff. From the time of its enactment it was regarded as a purely domestic concern of the British Empire. Sereno E. Payne, chairman of the Committee of Ways and Means of the House of Representatives, described it in 1909 as "an arrangement within the family, to which no exception could be taken," and Payne was quite as protectionist as McKinley or Dingley or any other of his Republican predecessors in the chairmanship of the committee at Washington in which all tariff bills originate. The Dingley bill of 1897 was before Congress when parliament at Ottawa enacted the first preferential tariff. No retaliation was suggested at that revision of the United States tariff, and there was no suggestion of retaliation at the revisions at Washington of 1909 or 1913.

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For the United Kingdom the preferential tariff of 1897 had four or five obvious results. It created a new link between the United Kingdom and the Dominion, and ended the idea born of the successful revolt of the American colonies of 1776–1783, that the colonies with responsible government would sooner or later assert their independence. It impelled the British government to create a new diplomatic status—a world-standing of importance—for Canada, New Zealand, Australia, South Africa and Newfoundland. It stimulated trade between the United Kingdom and Canada, and created a new, wide-spread and continuous popular interest in the Dominion, an interest that by 1905 had helped to turn the tide of immigration from England and Scotland from the United States to Canada.[1] Another result of the original preferential tariff was easier trade relations between the United Kingdom and the other dominions. New Zealand followed the example of Canada in 1903, the Union of South Africa in 1906, and the Commonwealth of Australia in 1907. Newfoundland is the only dominion which has made no tariff concession to the United Kingdom. Its isolated position in this respect is due to the fact that its tariff is exclusively for revenue.

From 1903 to the beginning of the war, and in particular from 1903 to 1907, the preferential tariff was a factor in the domestic politics of the United Kingdom. In 1903 Chamberlain, who had been colonial secretary since 1895, resigned that office to devote himself to a propaganda for tariff protection to the agriculture and industries of the United Kingdom, with preferences for imports from the dominions and crown colonies. In the earlier stages of the propaganda it was assumed in Great Britain that the manufacturers of Canada and of the other dominions would agree to a reduction of the protection afforded them in their own tariffs in order to secure preferences for foodstuffs and raw materials in the markets of Great Britain. There was some shattering of this assumption in 1904 when Canadian woolen manufacturers forced the Dominion govern-

[1] *Cf.* Johnson, History of Emigration from the United Kingdom to North America, 1763–1912, p. 347.

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ment to restore the duties on British woolens almost to the level of 1884–1897. After the revision of the tariff at Ottawa in the winter of 1906–7—the revision at which the preference was so greatly curtailed—the assumption that Canadian manufacturers would agree to anything less than adequate protection against imports from the United Kingdom had to be abandoned by the protectionists of the Chamberlain school.

Canadian manufacturers never disguised their hostility to the British preference. In season and out of season, from 1897 to the beginning of the war, the Canadian Manufacturers' Association assailed the preference, and strove to rid people of the United Kingdom of "the delusion that access to the Canadian market is the natural right of British manufacturers, regardless of the will of the country."[1] At the revision of 1907 it was made obvious that the government must obey the behests of the Canadian Manufacturers' Association; and after the whittling down of the preference in 1904 and 1907, the British preferential tariff ceased to be a factor in the agitation in England for a return to the protective system. The agitation continued until the eve of the war; but in the later years the protectionists no longer advanced the claim of 1903–1907 that a larger market could be secured in Canada for British manufacturers through a British tariff in which there should be preferences for the farm products of the Dominion.

The Movement for Reciprocity with the United States

One of the objects of the National Policy to which Macdonald and the Conservatives committed the Dominion in 1879 was to secure reciprocity with the United States. There was an offer of reciprocity in the tariff of 1870, and in 1874, for the first time after Confederation, the government at Ottawa made overtures to Washington for another treaty. Brown, of Ontario, was the Canadian commissioner. He was delegated by the Mackenzie government of 1873–78, was appointed joint plenipotentiary by the British government, and worked in association with Thornton, the British minister at Washington. After

[1] *Industrial Canada*, organ of the Canadian Manufacturers' Association, Toronto, October 1908.

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many conferences between Thornton and Brown and Hamilton Fish, secretary of state in Grant's second administration, a draft treaty was agreed upon. It was approved in London; but the Senate at Washington refused to ratify it, and today the chief interest lies in its free list. This shows how far the government at Ottawa, with the approval of a Conservative government at Westminster, was prepared to go in meeting one of the objections at Washington to the reciprocity treaty of 1854–1866.

After the Elgin-Marcy treaty had been in operation for four or five years, one of several objections raised against it at Washington was that its spirit had not been observed in Canada —that the United Provinces in 1858–1859 had adopted protective tariffs with a view to the exclusion of manufactures made in the United States. Between 1866 and 1874 it was realized at Ottawa that there had been a basis for this objection. It was also realized by the Mackenzie administration that Canada could not hope for another reciprocity treaty conceding the free admission of coal, lumber and farm products into the United States unless concessions were made in Canada for American manufactures. In 1874 Canada was prepared to make generous concessions—concessions of much value to American manufacturers; for if the treaty had been ratified by the Senate at Washington, Canada would have admitted duty-free seventy-seven classes of American manufactures. Among these were agricultural implements, cotton goods, tweeds, and boots and shoes. It was the best offer ever made by Canada to any country; for the manufactured goods to be admitted were articles in general use in the Dominion.

At least seven overtures for reciprocity were made by Canada in the thirty-three years from the denunciation of the Elgin-Marcy treaty to 1898–99, when a joint high commission, appointed as a result of overtures made by the Laurier government of 1898–1911, failed to reach an agreement. Five of the overtures were made direct to Washington. Two others, those of 1870 and 1879, were embodied in tariff acts of the Dominion parliament. The offer made in the tariff of 1879—an offer that remained on the statute book of the Dominion until 1894

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—and all the other offers made after 1879 were of much less value to the United States than the offer embodied in the rejected treaty of 1874. It was well known at Ottawa that the government at Washington would entertain no proposals for reciprocity that did not include free trade in some manufactured goods as well as in coal, lumber, fish and farm products. But it was not practicable for either the Conservative governments of 1878–1896 or the Liberal governments of 1896-1911 to renew the offer of 1874 with its long list of manufactured goods to be admitted into the Dominion duty-free.

The Conservatives framed and enacted the National Policy in 1879. The Liberals adopted and extended it in 1897–1907; and after high tariffs and bounties from the Dominion treasury had been established for the building-up of Canadian industries, Canadian manufacturers were promptly on hand at Washington to oppose any reciprocity agreement that would in any degree lower the tariff barriers against competition from the United States. In the earlier years of the reciprocity movement—1848 to 1879—the demand for freer trade relations with the United States was strongest with the coal operators of Nova Scotia and British Columbia, and with the lumbermen and farmers of Ontario, Quebec and the Maritime Provinces. There were no exports of grain from what are now the prairie provinces until after the Canadian Pacific Railway had connected Winnipeg with Montreal in 1883.

The movement for reciprocity easily survived the rebuff at Washington in 1874; and it was to conciliate the interests that were behind it and to attract support in the electorate for the National Policy, that Macdonald embodied the offer of reciprocity in coal, lumber and farm products in the tariff act of 1879. But after the tariff had been in operation a few years, the coal operators of Nova Scotia, long a factor in Dominion politics, preferred the duties in the tariff which protected them against American competition to the free entry of their coal into the United States that they had enjoyed under the reciprocity treaty of 1854–66.[1] Moreover, as manufacturing indus-

[1] *Cf.* Saunders, Life and Letters of Sir Charles Tupper, vol. ii, p. 97.

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tries were developed and extended in Canada, it became increasingly difficult for governments at Ottawa to make proposals of reciprocal trade that would be acceptable at Washington. Farmers and lumbermen persisted in their demand for reciprocity. These interests had to be humored at election times. Pledges had to be made to them; and the last two overtures from Ottawa to Washington—those of 1892 and 1898—were not much more than perfunctory fulfilments of pledges given at the general elections of 1891 and 1896. Neither the Conservative government in 1892 nor the Liberal government in 1898 was in a position to barter away any of the tariff protection of Canadian manufacturers to secure free entry into the United States of coal, lumber and farm products from Canada.

The seventh attempt since 1866 to secure a reciprocity agreement broke down during the sessions of an international commission which had convened first at Quebec and later at Washington. The Liberal government, at whose instance the commission had been appointed, then proclaimed that henceforth there would be no more pilgrimages to Washington, and that the next overtures for reciprocity must come from the government of the United States. For fifty years, from 1848 to 1898, all overtures for reciprocity had been made either by the British North American Provinces or by the Dominion of Canada. None had been made from Washington, and when the negotiations of 1898–99 broke down there seemed as little likelihood that Washington would ever ask for reciprocity as there was that Congress would repeal the duties on all imports from Canada without asking any tariff concessions for the United States from the Dominion. Reciprocity, as far as politicians at Ottawa were concerned, might have gone after 1899 into the limbo of forgotten questions but for two developments that came in the years from 1905 to 1910. One of these developments was in Canada. The other was at Washington. The organized grain growers of the prairie provinces and the farmers of Ontario put new life into the old movement for reciprocity when the tariff commission made its tour of the Dominion in 1905–6; and as this organization increased in numbers and became more potent in the political life of Mani-

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toba, Saskatchewan and Alberta, it threw more energy into the movement for reciprocity. This was the development that weighed most with the Laurier government; for in 1910 Laurier had made a political tour of the prairie provinces and had been bluntly told by the representatives of the grain growers' organizations that his tariff policy from 1897 had grievously disappointed his supporters in the west, and also that the grain growers still attached much importance to reciprocity with the United States.

The development at Washington came in 1909. It was welcomed by Laurier as opportune. President Taft, disheartened by the popular hostility to the Payne-Aldrich tariff, conceived that the high cost of living might be reduced if the United States could draw more freely on the products of Canada. Reciprocity, with some advantages for American exporters, was the easiest way for a Republican administration to achieve this end; and to the surprise of the government at Ottawa and the people of the Dominion, and to the dismay of Canadian manufacturers, there were overtures from Washington for reciprocity to be based, not as in 1854 on a treaty, but on concurrent legislation at Washington and Ottawa.

The Ottawa government was willing to negotiate; and after conferences at Ottawa and Washington extending from November 4, 1910 to January 21, 1911 an agreement was reached. It was more inclusive than the Elgin-Marcy treaty, which did not cover any manufactured goods. It was not nearly so inclusive as the rejected treaty of 1874; for paper, brass rods, wire rods, type-casting and type-setting machines and cream separators were about the only manufactured goods that Ottawa would agree should be imported duty-free from the United States. Duties on farm equipment, on printers' equipment, and on railway and plumbers' supplies from the United States were also slightly reduced. The concessions made at Ottawa on manufactured goods were, however, sufficient to enable the Washington government to proclaim that there had been no departure from the attitude adopted in 1866, when the government took the position that no reciprocity agreement would be considered which did not include manufactured goods as well as farm produce, lumber and minerals.

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Legislation was enacted at Washington to bring the agreement into effect. At Ottawa, when the reciprocity bill was introduced, it was opposed by the manufacturers, the bankers, and the railway and transport interests. The Conservatives, then in opposition, took their cue from these interests. They completely abandoned their old arguments in favor of reciprocity, and so successfully filibustered against the bill in the house of commons that the Laurier government was compelled to advise the governor-general to dissolve parliament, and after the most exciting and bitter electoral campaign in the history of the Dominion, the Liberal government and the reciprocity bill were defeated.

The election of September 21, 1911, which returned 133 Conservatives to the house of commons, as compared with 86 Liberals (the popular vote of the Conservatives was 669,000; Liberals, 625,000) demonstrated to the world what had been known at Ottawa since 1879. No government that is committed to the National Policy and that becomes dependent on the electoral, newspaper and financial support of the manufacturers and the various interests allied with the manufacturers, can enter into any agreement for reciprocal trade with the United States, if the agreement involves even the slightest scaling down of the duties that protect Canadian manufactures from American competition. The Laurier government of 1896–1911 knew this fact as well as any Conservative government from 1878 to 1896. But from 1905 to 1910 the organized grain growers were increasing rapidly in numbers, and were exercising a growing influence on politics in the prairie provinces. They were insistent in their demands for lower tariff duties and for reciprocity. A general election was in sight. The Laurier government took a chance in the interest of a movement that the Liberal party had championed for thirty years before it went over to protection in 1897. With the manufacturers and bankers and transport interests raising the cry that reciprocity would mean the end of the British connection, the odds were against the government, and it encountered defeat in a cause that both Liberals and Conservatives had continuously advocated from 1848 until the reciprocity bill was submitted to the house of commons on January 26, 1911.

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The Effect of American Example on the National Policy

Only the political developments that have come in the train of the National Policy have been outlined in this article. It would need a volume to trace the effect of the National Policy on the industrial development of the Dominion, to describe the development of the national grain route, and the results of the immigration propaganda as it was conducted from the department of the interior at Ottawa in the years from 1898 to the beginning of the great war.

From as early as 1791, when the provinces of Upper and Lower Canada were created, the example and influence of the United States have affected both the political and the economic development of Canada; and in no aspect of Canadian political life is the influence of the United States more apparent than in the development of the National Policy from 1858 to the year of the jubilee of Confederation. It is beyond question that Sullivan and Buchanan, the fathers of the National Policy in Canada, were affected by the example of the United States. These men—one a lawyer, and the other a merchant and publicist—began the movement in Upper Canada that resulted in the protectionist tariffs enacted by the legislature of the United Provinces in 1858 and 1859; and when the colonial office in London had hesitatingly and grudgingly given its assent to the tariff of 1859 — the tariff with which in the history of Canada and the British Empire the names of Galt and Newcastle are associated—the way was clear for a National Policy on the lines of that developed in Canada from 1879 to 1914. Buchanan was much more active in the early movement for protection in Upper Canada than Sullivan; and the writings of Buchanan show clearly that he was influenced by the tariff policy of the United States and its industrial development from 1840 to 1866.

At the later stages of the development of the National Policy —the stages from Confederation to the great war—it is obvious that the trade policy of the Dominion was directly affected by the refusal of the United States to re-establish the trade relations of the years of the Elgin-Marcy treaty, by the raising of the duties in the United States tariffs of 1890 and 1897, and

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by the enormous development of manufacturing in the United States from the end of the Civil War to the end of the nineteenth century.

Of these three influences the rejection by the Senate of the reciprocity treaty of 1874 was the most potent. Had that treaty gone into effect it would have been of much value to the farmers of Ontario, Quebec and the Maritime Provinces; and also to the lumbermen of four of these five provinces. It would have put farmers and lumbermen in as advantageous a position for trade with the United States as they were from 1854 to 1866; and with these interests, and also the coal interests of Nova Scotia, prospering under a reciprocity treaty with the United States—a treaty that must inevitably have been jeopardized by a high tariff against American manufactures—it is inconceivable that Macdonald at the general election in September 1878 could have persuaded the electorate to give its sanction to the National Policy, framed by a convention of manufacturers at Toronto in 1876, and endorsed and advocated by the Conservatives, then in opposition, in the parliamentary sessions of 1876, 1877 and 1878.

The critical years of the National Policy were from the second protectionist revision of the tariff in 1884 to the third revision in 1894. In this decade it was continuously assailed by the Liberal party in the house of commons, in the press, and in the constituencies. Blake and Cartwright were the foremost popular leaders in these years; and from 1867 to the jubilee of Confederation there were no more convincing or effective exponents of Liberalism, and of the fiscal policy advocated by the Liberals from 1874 to 1897, than Blake and Cartwright. It was in this decade also that the combine and trust were first developed as a by-product of the National Policy and National-Policy tariffs. In this decade, moreover, the stream of oversea immigration into Canada was disappointingly thin; the exodus to the United States was large and continuous; and the census of 1891, showing a gain in population of only half a million over the census of 1881, dismayed the leaders of the Conservative party, and resulted in much popular questioning of the success of the National Policy, which the people of Canada had

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for fifteen years been told would stop the exodus to the United States, and turn the tide of immigration from the United Kingdom to the Dominion.

At this critical period for the National Policy, and particularly at the Dominion general election of 1891 and at the revision of the tariff in 1894, it was a stroke of good fortune for the Conservatives and the protected manufacturers that the McKinley tariff had been enacted at Washington in 1890. The McKinley tariff affected the farmers and lumbermen of Canada more adversely than any developments at Washington since the denunciation of the Elgin-Marcy treaty in 1865. With the enactment of the McKinley tariff the hope of reciprocity cherished continuously for a quarter of a century by farmers and lumbermen receded, and at the general election in 1891 the Conservatives, instead of sustaining losses as might have been expected under conditions then prevailing, slightly improved their position in the house of commons, and were in control of the administration until July 1896.

The Dingley tariff of 1897, with its higher duties and the clauses embodied in it by means of which the lumbermen of Michigan planned, fruitlessly as it turned out, to get control of saw logs and pulp wood on crown lands in Ontario, Quebec, New Brunswick and Nova Scotia, also helped the Liberal party after it had abandoned its fiscal policy of 1874–1896, and gone over bag and baggage to the protectionists. In the years from 1902 to 1904, when the Canadian Manufacturers' Association was agitating for a revision of the tariff of 1897 in order to secure the curtailment of the British preference, and higher duties against manufactured goods from the United States, the association and its supporters in parliament and in the press revived one part of the National Policy as it was framed at the convention of manufacturers at Toronto in 1876. The manufacturers at that convention—one of the most important conventions in Canada in the first fifty years of Confederation—adopted a resolution which urged that in Canadian tariffs the duties on imports from the United States should always be the same as the duties in the United States tariff on similar goods. At the revision of 1906–7, the Canadian manufacturers pointed to the high duties of the

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Dingley Act, and pleaded for the increase of all duties on imports from the United States to the Dingley level. Fielding, then minister of finance, and chairman of the tariff commission, at the second or third of the sixty-seven public sessions of the commission, positively refused to consider this plea. To accept it, he stated, would mean that the tariff of the Dominion would be framed not at Ottawa but at Washington. Concessions had, however, to be made to the manufacturers who laid so much emphasis on the difference between the duties of the Dingley tariff and those in the tariff of the Dominion. Some of these manufacturers were conceded extra protection of two and a half per cent. Others were given as much as five per cent or seven and a half per cent. To all or nearly all, some concession was made; and at the revision of 1906–7 the Dingley tariff was as serviceable to the petitioner for more protection against American competition as the McKinley Act had been to the Conservative government at the general election of 1891 and at the tariff revision of 1894.

Both political parties—the Liberals as much as the Conservatives—were in the long run affected by these American conditions; for by 1897 the tariff was no longer a dividing line in Dominion politics, and the official Liberal party at Ottawa from 1897 to 1911 was quite as protectionist as the Conservative party has been at any time in its history since Confederation.

Again and again in the history of the old British North American provinces, and in the history of the Dominion, it is easy to see where American example has influenced the political life and economic development of Canada. Nowhere is this influence more obvious than in the development of the National Policy. Canada since the American Revolution has influenced and molded the colonial policy of Great Britain more than all the other self-governing colonies which are now of the dominions. It has led the way in all departures from the old policies applied to colonies with parliamentary institutions. The other dominions—Australia, New Zealand, South Africa and Newfoundland—owe all their larger freedom, all that today gives them the status of nations within the British Empire, to the daring and foresight of statesmen either of the old British North American Provinces or of the Dominion of Canada.

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Much, if not most, of this influence of Canada on British colonial policy was exerted between 1830 and 1866, in the period when British statesmen at last realized and profited from the lessons of the American Revolution, the period when they learned that the larger the freedom bestowed on colonies with representative institutions, the more binding became the links which held these colonies to Great Britain. These were the years—especially from 1840 to 1866—in which Upper and Lower Canada, then known as the United Provinces, secured for themselves and for all the other colonies with parliamentary institutions, the right to responsible or cabinet government as it had been developed at Westminster since the revolution of 1688, the right to amend their own constitutions without aid or supervision of the colonial office or the imperial parliament, and the right to enact protective or National-Policy tariffs regardless of the industrial interests of the United Kingdom.

The progress of Canada toward the status of a nation did not end at Confederation. Between 1867 and the jubilee year of Confederation, the Dominion had sought, had had bestowed on her, or had asserted, at least six rights or powers which had not been enjoyed by the United Provinces of 1840–1867. The rights thus obtained by the Dominion were: (1) the right to make her own coastwise navigation laws—a right enjoyed since 1870; (2) the right of the Dominion cabinet to veto a nomination to the office of governor-general—a right possessed at least since 1882; (3) the right to direct representation on the judicial committee of the privy council at Westminster—a right first exercised in 1897 when Sir Henry Strong, then chief justice of Canada, took his seat on the judicial committee; (4) the right of the Dominion to decide whether it will be a party to treaties made by Great Britain—a right enjoyed since 1898;[1] (5) the right of the Dominion to make her own immigration laws, and to exclude paupers and other undesirables from the United Kingdom or elsewhere in the British Empire—a right

[1] "At present the British Government never negotiates a treaty without putting in a stipulation that this treaty does not apply to Canada or to any of the self-governing dominions unless they are willing to be bound by it." Speech of Sir Wilfred Laurier, at Simcoe, Ontario, Aug. 15, 1911.

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first asserted and exercised in 1904; and (6) the right of the Dominion to appoint her own plenipotentiaries for the negotiation of commercial treaties and conventions—a right partially conceded as early as 1870, and fully conceded by the imperial government in 1907.

These rights, accruing to Canada as the result of the efforts of Canadian statesmen of both political parties, like the rights secured in the era of the United Provinces, accrued as a matter of course to all the other four dominions. The concession of these rights necessarily altered greatly the policies of Great Britain toward colonies with representative government. They are in fact the embodiment of the newer colonial policy. They are landmarks in the development of British colonial policy since the rebellion in Canada of 1837 and the Durham report of 1838. It is not possible to overestimate their cumulative importance. But important and far-reaching in their effects as they undoubtedly are as regards British domestic politics and Great Britain's relations with other powers, and the relations of the dominions with Great Britain and with each other, they are not so important as the National Policy as developed by the preferential tariff of 1897.

The Far-Reaching Effects of the National Policy

In any survey of the political development of Canada since Confederation, first place must be given to the National Policy. It has affected the Empire as a whole more than any other development in any of the dominions; and as a result of the war and of the closer relations of Great Britain and the dominions growing out of the war, it is now obvious that the influence of the National Policy on domestic politics in the United Kingdom is to be greater in the immediate future than it was in the years from 1897 to 1914.

In the two or three years preceding the war, free traders in England were congratulating themselves that the fiscal system established in 1846 was no longer in danger from the movement that Chamberlain had begun in 1903. The revisions of the Canadian tariff in 1904 and 1907, with the curtailment of the preference then made, free traders were confident, had

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convinced the leaders of the protectionist movement that it was useless to expect that Canadian manufacturers would concede any of their tariff protection in order to give British manufacturers larger opportunites in the Canadian market. They were equally confident that the Conservative and protectionist party in Great Britain would not risk a fourth reverse at a general election by advocating again protective duties on foodstuffs imported into Great Britain.

Mr. F. W. Hirst, one of the foremost advocates of free trade, in a recent review of the position of the tariff controversy in England in July 1914 wrote:

> It seemed indeed that the final victory of free trade was almost assured. In spite of agonized protests here and there, the Conservative party had found itself compelled to abandon the protective tariff on foodstuffs on which it had risked its existence, and on which it had fought three disastrous general elections. He would have been a bold prophet who would have predicted a long life for the remaining tariff on manufactures. The enthusiasm was out of the tariff movement; its confidence was gone; and a little thing would have killed it altogether.[1]

The war, and the part of the dominions and the other oversea possessions of Great Britain in the war, have completely changed the situation in England and Scotland as regards the protectionist propaganda of 1903–1914. Party politics for the present are dead. All energies are concentrated on the war. But it is only necessary to read the books that are issuing from the press discussing the political and economic problems that the war has thrust on the people of Great Britain, to watch the proceedings of chambers of commerce, and to follow the utterances of public men who are still free to write or speak on other questions than the war, to realize that with the end of the war, the question of protection and the fiscal relations of the United Kingdom and the dominions will engage public attention more closely than they did even in the years when Chamberlain was throwing his great energies into the movement for a return to

[1] Francis W. Hirst, late editor of *The Economist*, "The Breakdown of European Protection," *Commonsense*, London, January 27, 1917.

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the system of protection with preferences in British tariffs for the natural products of the dominions and the crown colonies.

Nor are these utterances in the press and on the non-political platform the only indications that as a result of the war and of the political developments that have come in its train, the pre-war fiscal system of Great Britain is now seriously threatened. The India Office in London, which always has the last word on the fiscal system of India, in March last, with the approval of the Lloyd George cabinet and of the House of Commons, sanctioned an increase in the duties on cotton goods imported into India from three and a half per cent to seven and a half per cent. Before the change was made, in the years from 1895 to 1917, the import duty was three and a half per cent. But there was an internal-revenue or countervailing duty of three and a half per cent on the output of cotton mills in India. Cotton manufacturers in India had no tariff protection against British mills. Today the cotton manufacturers of India have a protection of four per cent against all cotton imports, whether from England, Scotland or any other country. Cotton manufacturers in Great Britain insist that the change in the tariff is a departure from the fiscal policy of Great Britain, and they are seriously apprehensive that it is the forerunner of more changes that are coming at the end of the war.

There is abundant ground for this apprehension; for after the House of Commons on March 14, by a vote of 265 to 125, had approved of the new policy of the government at Calcutta and of the India Office, Austen Chamberlain, secretary of state for India, addressed a letter to the cotton manufacturers of Scotland, in which he defended the new departure—a letter which afforded the cotton industry of England and Scotland little ground for hope that the new policy is to be in effect only for the duration of the war. The letter was in reply to one from Alexander Wylie, a calico printer of Renton, Dumbartonshire, member of the House of Commons from 1905 to 1916, who had protested against the increased duty, and asked the secretary for India that cotton manufacturers might be informed if the Lloyd George government approved of "permanent protection for Indian cotton manufacturers" or if they had consented

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to it as a merely temporary arrangement to be abandoned after the war. Wylie added:

We ask this information that we may have time to prepare our course of action after the war. We concur in the raising of Indian duties to seven and one half per cent as a temporary arrangement for war purposes. We entirely object to the four per cent protection given to the Bombay mill-owners as unfair to the British, and not needed by the Indian manufacturers. The government say that it is only on a very small scale, but we regard it as the abandonment of the principle of fair play for British products, and as the entry of the thin edge of the wedge which may be driven home to the exclusion of a much larger part of them, as has been done in other countries. Protective duties against British products are much more inexcusable in India than in any other part of the Empire.

In reply Chamberlain answered on April 5:

It is a mistake to treat the change in the cotton duties as simply a trade question or as an effort of Bombay mill-owners to secure protection for their particular industry. In Indian eyes it is something quite different, and of much greater importance. It is a symbol of India's altered status in the Empire, and a recognition of her growing claim to consideration and sympathy. If this be recognized, and if India be approached at the proper time in the right spirit, I am sanguine enough to believe that her just claims and the legitimate interests of other portions of the Empire will be capable of friendly adjustment. So much for the general question. You then ask me whether His Majesty's Government approves "of the permanent protection of Indian cotton manufacturers." On this I would observe that if protection be the right word to use of such an adjustment of revenue to expenditure as has taken place in India in the last two years, cotton is even now less "protected" than, for example, woolen and leather goods were under the tariff which was in force from 1895 to 1916.

But His Majesty's Government have not had occasion as yet to express any opinion on protection for Indian manufacturers. They have reserved for consideration after the war the fiscal system of the United Kingdom and of the Empire. When that review takes place the fiscal system of India will also be considered in relation to the policy of the Empire as a whole, and if, as I hope, the result is the establishment of a general system of Imperial Preference, I do not doubt that India will be ready to conform to the system adopted, and to take her proper

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place in it. More than that it would not be right for me to say at the present time.[1]

Even more significant than this letter from the secretary for India is a statement made in the House of Commons on April 27 by Bonar Law, chancellor of the exchequer and leader of the house, concerning the action of the Imperial War Conference with regard to preferential tariffs. The conference began its sessions on March 22. Its special object was to consider problems arising out of the war. The dominions represented at the bi-weekly sessions held between March 22 and the date of Bonar Law's statement were Canada, New Zealand, South Africa and Newfoundland. India, which was not represented at any imperial conference from 1887 to 1911, was represented by the secretary of state for India, and by two native Indian delegates. A general election in Australia in February, and the formation of a new cabinet, made it impracticable for representatives of the Commonwealth to reach London for the earlier sessions of the conference. But when the new parliament assembled at Melbourne on February 22, Hughes, the prime minister, in addressing the house of representatives, explained the circumstances under which the conference had been called, and told the house that representatives of the Commonwealth were soon to leave for London. He said:

> The conference marks a new epoch in imperial development. It will consider all matters directly relating to war or arising from the war. For the first time the voice of the self-governing dominions will be heard on the great questions of war and peace, imperial trade, the constitution of the Empire, and the control of the Pacific.[2]

With the exception of Newfoundland, all the oversea dominions, India included, have protective tariffs, and the Indian tariff is the only one in which there are no preferences for imports from the United Kingdom. The sessions of the conference are held behind closed doors, and until Bonar Law made his statement, all that had been published concerning the

[1] *Glasgow Herald*, April 11, 1917.

[2] *Westminster Gazette*, London, April 23, 1917.

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conference was a brief official notice of its assembling and the names of the delegates and of the colonial and India-Office officials in attendance. In his statement to the House of Commons, apparently in reply to a question, Bonar Law announced that the conference had unanimously accepted the principle that each part of the Empire "having due regard to the interests of our allies, shall give specially favorable terms and facilities to the produce and manufactures of other parts of the Empire." There was no intention, he added, of making any change during the war. The resolution of the conference left the question of foodstuffs open, as it did not involve taxation on food.[1]

This letter of the secretary for India, and many utterances in the press and on the platform in the last eighteen months, make it obvious that notwithstanding the disappointments that tariff revisions at Ottawa in 1904 and 1907 brought to the supporters of Chamberlain's policy, much of the coming discussion of protection in England will center about preferences in the tariffs of the United Kingdom and of the dominions. In a word, it would seem that the National Policy of Canada, as it was developed by the Liberal government in 1897, is to influence British domestic politics in the years after the war, and also the politics of the British Commonwealth, much more generally, and probably more decisively, than it did from 1897 to the beginning of the war, when all political propaganda in England and Scotland came to an abrupt end.

The revival of the protectionist movement is now as certain as the end of war; and, to paraphrase part of Mr. Hirst's description of the position of the protectionist movement in July 1914, "he would be a bold prophet who will predict that the National Policy will not materially influence the fiscal policy of the United Kingdom in the two or three decades that follow the end of the war." It was admittedly an uphill fight for free traders after the Conservative party had so generally committed itself to the Chamberlain movement. They were greatly helped by the hostile attitude of the Canadian Manufacturers' Association toward the British preference from 1900 to 1907.

[1] *New York Times*, April 28, 1917.

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But as Mr. Hirst concedes, it was 1914 before the upholders of free trade could breathe freely in the conviction that the danger was practically passed.

A greatly enlarged electorate will have come into existence before there is another appeal to the constituencies on the fiscal question. This addition to the electorate will come as the result of the sweeping reforms to be made in the representative system in the parliamentary session of 1917. It will be much larger than the addition made by the extension of the franchise in 1884, because the qualifying period is to be reduced from twelve to six months, because registration is to be greatly simplified and made more favorable to democracy, because the new electorate will include tens of thousands of unmarried men who could qualify neither as lodgers nor as householders under the old electoral code, and because for the first time in the history of parliamentary representation in the United Kingdom women are to be of the electorate.

But both the old and the new electors have been greatly influenced by the war; and those of us who are free traders and who would regret any serious inroads on the British fiscal system of 1846–1914 must admit that an electorate so influenced cannot fail to be a better electorate from the point of view of the advocates of protection and of preferences for the oversea dominions and the crown colonies than the electorate to which the protectionists made their three unsuccessful appeals in 1906 and in January and December 1910. It was largely due to the National Policy of Canada that all the dominions except Newfoundland adopted protective tariffs in the years between 1897 and 1905. If the United Kingdom after the war should abandon free trade, Canada's policy will account for much of the change in popular feeling necessary for this abandonment; and with the United Kingdom on a protective basis, it will be open to protectionists in the United States to claim that their policy has directly affected the whole of the English-speaking world; for admittedly the National Policy would never have been developed in Canada as it was from 1858 to 1914, had Canada not had a protectionist country as its only neighbor.

EDWARD PORRITT.

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THE ORGANIZATION OF LABOR IN WAR TIME IN GREAT BRITAIN

IN war time, the problem of the organization of labor, hitherto largely the concern of entrepreneurs and trade unions, becomes national in scope. The task of organizing labor, of using it to its highest effectiveness, of keeping it smoothly and happily at work, is one which the industrial history of almost any civilized nation during the present century shows to be beyond the capacity and power of the entrepreneur. Organized labor is fighting for greater security and a reasonable standard of living. To that end it has built up great organizations and hedged its productive power round with many restrictions. In a national emergency, while willing to give its best services to the state, it needs guarantees that the surrender of the restrictive means shall not entail the loss of the social ends which they are intended to serve. Unless these guarantees are given, production will continue to be restricted. Single entrepreneurs, though willing, cannot give guarantees satisfactory to widely scattered but closely organized trade unions. The interests of the state cannot tolerate restricted production. Hence the state will tend to become the all-inclusive entrepreneur, forcing single plants into a co-ordinated scheme of production whereby its urgent needs of certain kinds of goods can be met, guaranteeing the workers their reasonable demands, and compelling modes of distribution of labor and a regularity of production which will give it the quantity of goods it needs. A theoretical analysis of the problem of the organization of labor in war time shows the tendency of the state to be driven to a large measure of interference, not to effect any designed or undesigned measure of socialism, but to secure efficiency in production and to further the general welfare.

The United States, in the present emergency, is not compelled to rely on such a reasonably valid deduction from economic principles. It has available the actual experience of the bellig-

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erent countries, and especially of England. The similarity of the two countries in modes of economic organization and in the use of selective conscription makes English experience specially valuable for the United States.

The outbreak of war was followed in England by the declara- of an industrial truce, as soon as the leaders of the working classes had been convinced of the justice and the unavoidable necessity of the war. The seething discontent within the labor ranks, manifest in proposals for the amalgamation of the three biggest trade unions and in a great variety of strikes, sank to rest at the cry of national danger. Strikes in progress were settled, often by the employers yielding, at other times by the postponement of the disputed questions until after the war. The proposed modes of trade-union reorganization were laid aside. All this was done voluntarily and without exacting any conditions. Very quickly, however, it was perceived that in so doing the laboring classes had left themselves almost defenseless against the sweating which began to characterize army contracts, against unemployment and an increase in prices. Sweating was stopped by the publicity which was given to it. Unemployment passed away after a period of about six months, under the operation of dynamic forces generated by the war. Voluntary enlistment took away in fairly large numbers the younger and more active of the workmen. Their places were taken by men and women previously unemployed. When the army increased in numbers, and the provision of the equipment came to be a huge industrial enterprise, workers from fields where the war intensified unemployment, such as the cotton and jewelry industries, transferred themselves to the war trades. That is, the dread fear of general unemployment was averted by the demands of war on man-power, and was replaced by a problem of insufficient labor and inadequate production.

The problem of rising prices led the workers to break their industrial truce, and this in its turn precipitated government interference. The working classes attributed rising prices in large part to profits made in coal mining and shipping. This rise was a considerable burden to the fully employed workman, even though his wages had risen slightly, but to the great num-

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bers of wage-earners not engaged in trades necessary to the war it was intolerable. The watchword "mutual sacrifice," which had inspired the workers' agreement not to strike, seemed a ghastly irony in face of the large profits which the employers showed no disposition to sacrifice. Appeal was made to the Asquith government, which offered only soft words and procrastinating promises. Realizing that they had destroyed their economic power by surrendering the right to strike, the organized workers demanded higher wages and the limitation of profits, and backed up their demands with the threat of strikes. Their own well-intentioned effort to throw the labor movement into a position of static equilibrium for the period of the war proved to have given little assistance to the nation. Hence failure to obtain increased wages led the engineers of the Clyde, 9,000 in number, to go on strike. Since "important munitions of war urgently required by the navy and army" were thus held up, the government ordered the resumption of work on March 1; but the canny Scots, to show they were not yet "industrial conscripts," did not go back till March 4. Government investigation of this trouble showed that the relations between capital and labor were such as tended to make for failure in supplying the nation's wants. Capitalistic organization was too insistent on profits and too inflexible to secure the ready co-operation of a labor force that smarted under some injustice and much provocation. The government therefore appointed, in February 1915, a committee on production in engineering and shipbuilding establishments, "to inquire and report forthwith, as to the best steps to be taken to ensure that the productive power of the employees in engineering and shipbuilding establishments working for government purposes shall be made fully available, so as to meet the needs of the nation in the present emergency." Within a few weeks, this committee found out the incompetency of capitalism above referred to, and saw that two remedial measures must be attempted: first, the obtaining of increased wages to offset the rise in prices; and second, the organization of labor by the state. These two remedies were to be part of a plan for the intensification of the manufacture of munitions through the control of industry.

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The methods taken for the control of industry constitute the most significant contribution of England to industrial history during the war, and form an epoch-making innovation. By November 1914 it had been discovered that an insufficient quantity of munitions of war was being produced. This was found to be due to an insufficiency of skilled labor, and this in turn to the fact that up to that date over 10,000 skilled artizans had been allowed to enlist in the regular army. For this latter fact the reason must be found in the general ignorance of what the war would entail. When the deficiency was apparent, the employers approached the trade-union leaders with a request for the abrogation of trade-union restrictions on the manning of machines, on hand operations, on the demarcation of work between trades, on the employment of non-union and female labor, and on the amount of overtime to be worked. In return, they offered no concessions, and refused to consider counter-proposals. An impartial consideration shows that neither capital nor labor was able to meet the situation. The workers had been asked to surrender what they considered the chief fruits of a century's struggle for economic independence. Further, they were to surrender them not only without guarantees concerning their restoration, but with a certainty that the new organization proposed would considerably worsen their position after the war. On the other hand, there was no doubt, as the government committee on production showed, that the abolition of restrictions on earnings and output, and the introduction of female labor "under suitable and proper conditions," would greatly increase the output of munitions of war. The same aim would be furthered, in the opinion of the committee, by suspending, during the continuance of the war, all demarcation restrictions, by making greater use of unskilled or semi-skilled labor, "with proper safeguards and adjustments to protect the interests of the work people and their trade unions," and by forbidding strikes and lockouts on work for government purposes. If all such union regulations were to be suspended, it was but justice to the workers that the restoration of the regulations at the end of the war should be guaranteed to them by the only authority that could enforce such restoration. Hence,

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on the failure of negotiations between employers and workmen, Mr. Lloyd George, as the representative of the British cabinet, took a hand, and in March 1915 induced the trade unions to abandon the above-named restrictions on output and to accept compulsory arbitration during the war period, in return for guarantees concerning the limitation of profits, the restoration of union rules and customs after the war, and the reinstatement of men serving with the colors.

Despite the above measures, the situation had become so critical by June 1915 that the Munitions Act was introduced for the purpose of mobilizing the country's industrial resources. Its provisions follow logically from the agreement above mentioned, and represent their legislative formulation with the addition of the state's power of enforcement. The act contains three sections. In the first section, strikes and lockouts are declared illegal in certain specified trades unless the point in dispute has been referred to the Board of Trade at least three weeks previously. This part of the act specifies differences concerning rates of wages, hours of work and other conditions affecting employment in munitions work as those which may be referred to the Board of Trade, and provides that during investigation of the difference, the same conditions of labor and remuneration shall prevail. Part two entitles the minister of munitions to designate certain factories, where munitions work is carried on, as "controlled establishments." In these establishments, all profits above an amount greater by one-fifth than the average net profits of the two fiscal years prior to the war shall be paid into the exchequer. No changes in wages or salaries, except for changes to give effect to government conditions concerning fair wages, shall be made without the consent of the minister of munitions. "Any rule, practice or custom, not having the force of law, which tends to restrict production or employment," is to be suspended for the period of the war. This of course refers to union rules. It is further made illegal for any employer to give employment to a workman who within the last previous six weeks has been employed in a munitions factory and has left without the consent of his employer or a certificate from the munitions tribunal that the consent has

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been unreasonably withheld. Part three provides for the establishment of munitions tribunals, consisting of a chairman and two or some even number of assessors representing in equal proportions employers and employees. These tribunals may be of two classes, one to have jurisdiction concerning all offenses and matters under the act, the other to deal only with the regulations drawn up for the controlled establishments.

There are attached to the act two schedules, one of which particularizes the arrangements just stated, providing a committee of production and a court of arbitration. The other contains the charter of the liberties of trade unionism, guaranteeing that any change in industrial practice shall be for the period of the war only, and that these changes shall prejudice the post-bellum position of neither individual workmen nor their trade unions. After the war, priority of employment shall be given to men who have been serving with the colors or who were in the owner's employment when the establishment became a controlled establishment. Rates of pay made necessary by the introduction of semi-skilled workers shall be the usual rates of the district for that class of work, and a record shall be kept of all changes of working conditions.

In the carrying out of the act, several significant alterations in the industrial economy have been made. In the first place, the dilution of skilled with unskilled labor has been effected on a large scale in industries where skilled men only were employed previously. To begin with, some 45,000 skilled laborers who had enlisted and were in the trenches were recalled. These and other skilled men available were confined to work which could not be efficiently performed by less skilled labor or by women; that is, these men came to be foremen, overseers or shop stewards. Then a call went out for women workers, who were employed on simple and monotonous machine tasks, and more than half a million women are at work today in munition factories. Lastly, semi-skilled and unskilled men came to be employed on work which did not necessitate skilled men and which was unsuitable for women. In this way, each worker was used to his utmost productivity, while an impetus was given to the standardization of methods, so that all unskilled labor could be

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made more effective. Tasks which had previously employed a skilled man on a complex machine were divided into smaller and simpler tasks that could be standardized by the methods of scientific management. The installation of new machinery presented no economic difficulty, since the provisions of the act relating to profits allowed such alterations of plant to be included in the gross costs of production.

Further, attention has been given to health, safety and general welfare. The creation of a Health of Munitions Workers Department has led to a scientific examination of problems of speeding, long hours, fatigue, nourishment and so on. As a result, the long hours and seven-day week which were worked under the first burst of patriotism have been greatly reduced. It has been proved that the week-end rest is essential for efficient production, and that shorter hours with intermittent rest periods are economically profitable. Night work has been found to be objectionable on physiological and economical grounds alike. In the case of women, it has been found desirable to establish in each factory a welfare supervisor, whose business is to attend to the well-being of the employees, to deal with the causes of sickness and broken time, and of slow and inefficient work arising from conditions of health, fatigue or physical strain, to devise recreational facilities and to assist in the maintenance of proper discipline and good order.

Of the results of the operation of the Munitions Act little need be said. It has brought order and unity out of the medley of industrial enterprises. Some 4,000 controlled establishments are now at work under one controlling head, the minister of munitions, and military and naval necessities are not only properly balanced but adequately met. No other method but that of state control seems adequate to meet the nation's needs. The negative instance which in its ultimate working out goes far to substantiate this generalization is afforded by the Welsh coal mines. The coal miners had refused to sign the agreement made with Mr. Lloyd George in March 1915. By means of strikes early in the history of the war, they had forced their employers to agree to compulsory unionism, while the Trade Boards Act, which had been applied to their industry in 1912,

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gave them machinery for the settlement of disputes, which they preferred to the compulsory arbitration of the Munitions Act. Another strike in their industry in July 1915 compelled the government to proclaim them as coming under the provisions of that act. Still industrial peace was not assured, and in December 1916 the government, under the authority of the Defense of the Realm Act, was obliged to assume control of the Welsh coal mines as the only means of keeping production up to the necessary level.

Summarizing this historical sketch, we see government control established as a matter of necessity in all industries on which the nation depends in war time. The *laissez-faire* individualism of England, which was quite as pronounced as that of America, has been replaced by centralized control at the hands of the state and in its interests. Industry and transportation are socialized. The reason for this is in part explained by Professor Edward T. Devine in an editorial in *The Survey* for December 18, 1915:

> European experience in the present war shows that even from the point of view of output, this form of industrial organization (for private profit) breaks down. Self-interest seems not to be a motive upon which society can rely when the common interest is most seriously threatened. Not enough, apparently, can be produced, the right things are not produced, and the prices are not reasonable. Therefore the government, in England and in Germany, takes control of industries, fixes prices, determines what to produce and what quantities. Public opinion supports this social control because the existence of the state is felt to be at stake.

This is correct as far as it goes, but it omits to state explicitly what it possibly implies. The socialization of industry referred to was necessary, further, because in the present relations of workmen and employers, the industrial mobilization of labor was impossible. The struggle involved in these strained relations was one concerning the distribution of a product which the employers sought to increase for their own profit alone, and the employees sought to restrict within limits that seemed to be for their own relative betterment. From the nation's

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standpoint, in a time of emergency and crisis, labor and capital were joint factors in the process of production for the general good, and the nation alone was competent to force this point of view upon the warring factions. In so doing, it allowed the capitalist fair profits, and guaranteed the workmen legitimate industrial rights.

We pass now to consider the after-war problems. We are without the concrete guidance of actual experience and can therefore do little more than state the problems. The reorganization of industry involves two processes, one relating to the adjustment of employment and industry, the other to questions of trade-union organization. Under the first head come six matters:

1. The replacing of soldiers in industry. There are four or five million men for whom private employers and the government alike have guaranteed employment.

2. Change of occupation for munition workers. About three million men and women are engaged in munition plants, almost all of which will be closed after the war.

3. Finding employment for those men who entered trades as substitutes for men serving under the colors. In virtue of the agreement entered into with the government, the returned soldiers will have first call upon their old positions. Figures in connection with the mining industry are available to show the seriousness of this difficulty. At least a quarter of a million miners enlisted, while 160,000 men came in either from a state of unemployment or from other occupations to take their places. Of this latter group, a large proportion, if not all, will have to find work outside the mining industry.

4. Finding employment under reasonable conditions for the partially disabled. In this connection, two separate lines of treatment are required. One is the invention or the discovery of trades suited to various types of disablement, or the adjustment by education of disabled men to the present organization of industry. The other is the establishment for these men, all of whom will be receiving slight pensions, of a scale of wages which will not be inimical to the general standard of living of the workers. Already measures have been taken to deal with

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this latter question. In January of this year the Board of Trade set up advisory wage boards in various districts to "advise" what wage shall be paid a disabled soldier or sailor, having regard to current wages and the man's capacity, but not taking account of his pension. Without the latter proviso, the pension could be made a bonus in aid of wages the advantages of which would go to the employer, not to the pensioner.

5. The position of women in industries new to them. Although women have not been employed in large numbers in any other new industry than the manufacture of munitions, they have entered a great number of occupations. Some 20,000 are to be found in the engineering trades, and many in railway transportation. In many of the trades they have entered, they are likely to stay.

6. The adaptation of factories and machinery to peace conditions. Possibly in the engineering industries this will be easy, because of the more efficient machinery that has been installed, and because of the great demand for ships after the war. Other industries, in which the factories have been transformed in modes of organization and types of machinery, will have to face a more difficult situation.

The questions of trade-union organization which will confront the workers are two in number. It will be necessary to restore trade-union conditions and to devise new regulations for those conditions that have been vitally and permanently altered by the war. A new industrial world will face the trade unionist. He will find the lines of demarcation between crafts largely obliterated, and the limits of work between skilled men and unskilled men and women largely obsolete. New methods of factory organization and new machinery have entered the static paradise he was striving to create, and disrupted it. Greatly increased production has been furnished by the workers during the war, and will be demanded after the signing of the peace treaty, as a prerequisite to the restoration of trade. Amid this welter of disturbing issues, the trade unionist is chiefly concerned with wages. The war has aggravated the dangers which all along have threatened the workers' standard of life. In the munition industries, men and women are making high earnings

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because they are working on government orders, in which there is less restriction on the cost of production than in private enterprise, and because they are working with an intensity, speed and duration of labor with which they did not and will not work in peace times. When peace returns, the employer will accept the war-time speed, but will seek to return to the wages paid before the war, on the ground that higher wages are not possible in private enterprise where the cost of production has to be kept down. The men, however, will contend for the wages paid in war time, but will object to the speed which accompanied those wages in munition factories.

But the more difficult questions arise out of the dilution of labor and the new methods of production. By the standardization of machinery and the application of scientific management, all the trade-union methods for securing the status of members have been upset. Women and unskilled laborers are doing work which skilled men alone did before the war, but are receiving only unskilled men's wages. During the war, the disposition of labor has been such that there has been no competition between skilled and unskilled laborers. After the war there will be. Skilled men seeking to return to their old rank in industry will find competitors in the unskilled men and the women working the simplified machines that have been introduced. The question these skilled men are asking themselves is, will wages sink to the level of the marginal competitor, the single, unattached woman? To this question they can find no conclusive answer, though there has been much speculation.

Comprehensive suggestions toward the solution of the foregoing problems have come from the trade unions. Naturally, they look to secure their own safety by a greater recognition of trade unionism, but their spirit is changed. They have gained in prestige and in economic power during the war, and their attitude is now that of a powerful bargainer rather than of one menaced by impotence and harassed by injustice, actual and imagined. At the Trade-Union Congress of September 1916, the members present declared themselves in favor of every effort to preserve industrial peace with the aim of securing thereby the material prosperity of the nation after the war.

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To that end they expressed their desire that the government and the Employers' Parliamentary Association should be approached by their executive officers with the following proposals:

1. That compulsory trade unionism should be instituted.
2. That a working week not exceeding 48 hours should be made compulsory in industry.
3. That a minimum wage of 30 shillings ($7.20) should be made compulsory.
4. That no reduction in wages, or increase in hours beyond those normal at the end of the war, should be attempted.
5. That employers should give complete recognition to trade unions and to all agreements entered into between unions and employers' associations.
6. That employment should be provided by the state for men and women out of work.
7. That the conditions of women's labor after the war should be left to be settled by the unions.

In the speech of the president of the congress there was a further demand for an equal voice with the entrepreneur in the conditions of labor, the hours of work, the conditions of remuneration, and the manners and practices of foremen. This may possibly be interpreted as an ideal of industrial democracy for which the congress did not deem the time ripe.

In reply, the Employers' Parliamentary Council, in their annual report for 1916, proposed the repeal of the Trade Disputes Act, in the belief that such action would make wide-spread strikes impossible. They urged that the form of trade unionism existing before the war should not be restored, but that some "saner regulations with respect to labor and industry" should be substituted and strictly enforced. They insisted that the demoralization of workmen caused by the labor unions should be stopped, since it was leading to bankruptcy and national ruin. They agreed that since "acts meddling and interfering with the management and conduct of nearly all trades and industries in the kingdom, restricting the freedom of capital"—the Factory Acts were specifically named—had been ruthlessly swept away during war time, they must never be resorted to again.

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It must be said of the Employers' Parliamentary Council that it is small and unrepresentative, despite the influence it seems likely to have upon legislation. It is the extreme right wing of the employers, and has an outlook that is frankly and uncompromisingly individualistic. Nevertheless, its attitude is significant as indicating how difficult a task will face the trade unions. A recent series of articles in the *Times* argued that full restoration of trade-union rules is either impossible or undesirable, and that the unionists should accept an adequate *quid pro quo*. The position is accentuated by the partial failure of the government, as a partner in industry and the guarantor of the restoration of trade-union conditions, to furnish adequate proposals concerning reconstruction. Up to August of last year, it had made arrangements that certain munition workers, amounting to one-third of the total, should come under the provisions of the National Insurance Act concerning unemployment, that unemployment insurance should be provided for every discharged soldier and sailor, and that each of the latter should have furlough for four weeks on the usual pay and allowances, during which time he might seek employment. Since that time, there has been created in the Lloyd George cabinet a minister for labor who exercises a threefold function in dealing with disputes, and in controlling the previously existing labor exchanges and trade boards. Since the labor exchanges will have much to do with demobilization and the placing of soldiers back in industry, there is some hope that this department will do for the period of reconstruction what the ministry of munitions did for the period of war.

Ultimately, the paramount necessity in the period of reconstruction is the re-creation of the wealth that has been destroyed in such abundant measure. Until it is re-created, there will be but a small economic surplus available for supporting the purchasing power of the people and paying wages. The prior problem after the war is not that of securing to the workers a higher standard of living, but of realizing that increased productivity without which a higher standard of living, under the present circumstances, would be impossible. To that end both capital and labor will need to undergo a change of heart. The

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former may be compelled to alter factory management so that the grievances of labor and its demands for a more democratic and social control of industry shall be met. The latter will have to learn that wages and wealth alike are ultimately created by the joint forces of labor and capital, that a continued quarreling over the distribution of wealth diminishes its production and does an injury to the whole community, and that the laborer must give joyfully and gladly of the full toll of his service to the common weal. Only on this basis can the problem of reconstruction be solved.

The experience of England in this matter of the organization of labor conveys many valuable lessons, which may be briefly summarized.

1. Measures should be taken at the commencement of war to prevent skilled artizans from joining the ranks of the regular army. This preventive action is possible only when these skilled workers are known. To that end three measures are necessary: (a) The taking of a military census, enabling the government to know not only the person but also the number of such workers available. (b) The exempting of such skilled workers from any necessity to enlist. Since this necessity would, in the nature of things, be largely economic, there would be needed some form of administrative labor exchange to deal with the unemployment that follows on the disarrangement of industry. (c) The publication of a list of certified workers whom patriotism, public opinion and good sense would keep in the munition factories, and others necessary for the successful pursuit of war.

2. A reasonable basis of co-operation between capital and labor needs to be arranged at the outset. This must cover the questions of wages and of disputes arising out of new problems in factory organization. Since the cost of living advances faster than wages, some easily adjustable machinery is needed to prevent the disparity becoming the cause of strikes. This machinery, in the form of conciliation committees for the whole industry or in each workshop, would be available for questions of factory organization. In England, the engineering and shipbuilding workers have recently concluded with their employers

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and the government committee on production an agreement that during the war wages shall be re-assessed on a nation-wide basis three times a year, so as to keep up with the altered cost of living. Further, where great friction had existed in factories over the requirements of the munitions tribunals, peace reigned when the discipline of the factory in cases of lost time, and even in the arrangements concerning the dilution of labor, was put in the hands of committees of workers. These committees are of value in proportion as they stand close to the work and the conditions of its operation.

3. To prevent an abnormal rise in prices, with the consequent demand for increased wages, measures need to be taken to secure national service from the great industrial enterprises at a reasonable rate of profits.

4. A minister for labor is the necessary partner of a minister for war. In the belligerent countries, capitalism has proved itself inadequate for the co-ordinated production of what the nation needs. This is the inevitable result of profit making as the end of industry. To conserve its very existence under new and trying conditions, the state has become a partner in industry. For the successful co-ordination of the factors of production under these conditions, both during and after the war, a separate department of state tends to be necessary. Though such a department might become a centralized despotism under the pressure of military necessity, it might equally lead to the creation of industrial democracy, or at least, to the supremely desirable end of reconciling the conduct of industry with public welfare.

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BALKAN DIPLOMACY II

IN the last number of the POLITICAL SCIENCE QUARTERLY [volume xxxii, page 36] the writer discussed the diplomatic situation in the Balkans at the opening of the Great War, and described the efforts of the Entente Allies and of the Central Powers to secure the adhesion of the various Balkan states. It was shown that the policy of the Entente Allies was to revive the Balkan Confederation of 1912, and secure its attachment to their cause. This would complete the ring about the Central Powers, and, it was believed, would permit of a comparatively easy conquest of Turkey. In the latter event the Straits would be opened for the passage of Russian food products to France and England, and British and French munitions to Russia. It would, moreover, relieve Great Britain of the need of maintaining an army in Egypt to prevent a Turkish invasion. The success of the diplomacy of the Entente Allies was shown to depend upon their ability to secure territorial concessions from the other Balkan states to placate Bulgaria for her losses in the Second Balkan War and to outbid the Central Powers in the promise to her of territorial expansion. The diplomatic drama that was enacted at Constantinople and Sofia was described, and the success of the Central Powers in securing the adhesion of the two Balkan states that favored them at the opening of the war was explained. The present article purposes to account for the measure of success of the Entente Allies in their negotiations with the two Balkan states, Rumania and Greece, which at the beginning of the war favored their cause.

It is not hard to explain the sympathy which the great majority of Rumanians felt for the Entente Allies in August 1914. The union in 1859 of the independent provinces of Moldavia and Wallachia into the state of Rumania had received the support of Napoleon III, and this accentuated the affectionate regard for France which existed among all classes. This was

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shown in 1870 when, at the outbreak of the Franco-Prussian War, the effusive demonstrations throughout Rumania in favor of France were held in check only by the threat of King Charles to resign his crown. Moreover, the Rumanians looked upon their country as a Latin islet surrounded by Slavs and Teutons, and had a sentimental belief that their destiny was in some way bound up with the destinies of the other two great Latin states, France and Italy. The most impelling cause for Rumanian sympathy for the Entente Allies, however, was the hatred that Rumanians feel for the Magyars. More than three and a half millions of Rumanians live in *Rumania irredenta*, in provinces of the Kingdom of Hungary. Almost three millions were just across the border in Transylvania, the remainder being found in the province of Bukovina in the north of Hungary and in the Banat of Temesvar in the south. When the *Ausgleich* of 1868 was formed between Austria and Hungary, it was understood that Austria was to have a free hand in dealing with the non-German races of her part of the Austro-Hungarian Empire, and that Hungary was to enjoy a similarly favored position in hers. The Austrians, because of the exigencies of domestic politics, have vacillated in their dealings between a policy of repression of the subject nationalities and one of friendly consideration, as in the case of the Poles of Galicia. But there has been no cessation by the Magyars in their determination to "nationalize" their subject races. Croatians, Serbs, Rumanians—all experienced the excessively harsh treatment of the dominant race. Repeatedly mass meetings were held in the cities of Rumania to protest against the outrages upon their unredeemed "brethren," and it sometimes required great finesse upon the part of the Rumanian government to avoid a break with Austria-Hungary. The success of the Central Powers would make permanent the degraded condition of the Rumanians in Hungary. An alliance with the Entente Allies, the self-proclaimed protectors of the rights of "small nations," would probably mean the annexation by Rumania of some, if not all, of the territory of Hungary inhabited by Rumanians. When Bulgaria entered the war in 1915 on the side of the Central Powers, Rumanians felt that an additional reason existed for an alliance with the Entente Allies.

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Crowded in between the two military empires of Russia and Austria-Hungary, they could not view with equanimity the growth in power of a third state on their southern border, a change which would not only render their national existence more insecure, but would destroy their predominant position in the Balkans secured to them by the Treaty of Bucharest.

Not all Rumanians, however, favored the Entente Allies. King Charles was a Hohenzollern, and his national predilection in favor of his native country was strengthened by his remembrance of what he termed "the great betrayal" of 1878. Russia rewarded Rumania for her splendid assistance in the Russo-Turkish War of 1877 by depriving her of her fertile province of Bessarabia and compelling her to take in exchange the Dobrudja, a low marshy district inhabited chiefly by Bulgarians and Moslems. *Rumania irredenta*, therefore, included territory in Russia as well as in Hungary. Russia's unfriendly act drove Rumania into the arms of the Triple Alliance, and in 1883 the king concluded a secret treaty whereby Rumania became attached to Germany and Austria-Hungary under the same conditions by which Italy was attached to them. Moreover, a considerable number of Rumanian statesmen held the belief that there was a far greater danger to their country in the Russian policy of pushing towards Constantinople than in the German *Drang nach Osten*. Rumania had developed a large foreign trade by way of the Black Sea and the Straits, and the freedom of the latter was an economic necessity to her. Russia, ensconced at Constantinople, could reduce her to economic vassalage as Austria had reduced Serbia. Finally, a considerable number of Rumanian military officials were convinced of the invincible superiority of the German army and believed that the entrance of Rumania into the war upon the side of the Entente Allies would be a policy of national suicide.

On August 3, 1914, two days after the outbreak of the war, King Charles called a crown council to consider what should be the policy of the country. He himself was in favor of putting into effect the treaty of 1883, and in this position he was supported by M. Peter Carp and M. Alexander Marghiloman, the leaders of the Germanophile party. The opposition view

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was maintained chiefly by one of the most influential of the Rumanian statesmen and the leader of the Francophile party, former Prime Minister Take Jonescu. He was assisted by two other distinguished statesmen, John Lahovary and M. Filipescu. In addition to insisting that the national interests demanded participation upon the side of the Entente Allies, they reminded the council that the treaty of 1883 had been signed by the king with the consent of but a limited number of the leading statesmen of the country and had never been formally ratified by the chambers. They also referred to the manner in which Austria had deserted Rumania to support Bulgaria in the critical period just previous to the Second Balkan War. The long session of the crown council was about to close in indecision when a telegram brought the news of Italy's declaration of neutrality. That settled the question for Rumania. If Italy, whose engagements with the Central Powers were similar to those of Rumania, could honorably remain neutral, there was no reason why Rumania should act differently. The government declared neutrality.

Immediately upon the declaration of neutrality the diplomatic struggle described in the last article as taking place at Sofia was paralleled at Bucharest. The proposals of the Central Powers to Rumania were as positive and direct as they had been to Bulgaria. If Rumania would cast in her lot with the Central Powers, they would at once aid her to retake Bessarabia. Bessarabia is far more fertile than Transylvania and its million inhabitants are much more exclusively Rumanian. The bait was all the more tempting when compared with the vague promises of the Entente Allies to assist the Rumanians to attain their "national aspirations." To these vague promises were added most urgent appeals to Rumania to return Silistria and the part of Dobrudja taken from Bulgaria by the Treaty of Bucharest in order to secure the latter's agreement to the reconstruction of the Balkan Confederation. In proportion to the insistence of the Entente Allies upon placating the implacable did the influence of their friends at Bucharest wane. The waning process, moreover, was greatly hastened by the vigorous campaign waged in the press by the agents of the Central

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Powers. They did not fail to point out that England's fleet had little meaning for Rumania, that the Russian army was inefficient, that France was far distant, but that the Central Powers were near by. Nor was the unfavorable configuration of Rumania for national defense left unemphasized. It is long, narrow and sickle-shaped and can easily be invaded and cut in two. Without large resources in guns and military supplies, which Rumania admittedly lacked, its defense would be hopeless againt an enemy of the strength of Germany.

All these arguments were not without their influence upon John Bratianu, the prime minister, and one of the most cautious and reticent statesmen of Europe. Like most of the politicians of the Balkan states, Bratianu is a political realist. He was determined that out of the European embroilment should emerge a larger and stronger Rumania, made so through acquisition of "unredeemed" territory. He apparently shared the sympathies of the majority of his countrymen for the Entente Allies, but his activities were determined by Rumania's interests, not by his sympathies. His position can best be understood from the following statement made early in the war:

> The choice between belligerency and neutrality must be determined solely by the balance of territorial advantages which is offered by each side. We cannot afford to repeat the mistake we made at the time of the Russo-Turkish War, when, in return for heavy sacrifices of blood and money, we were bereft of one of our most fertile provinces and were given a barren tract of land with indefensible frontiers and the undying enmity of its Bulgarian owners. This time there must be advantageous terms clearly specified, and adequately guaranteed, and unless they outweigh those which we can obtain from the other side in return for mere inaction, we shall feel it our duty to reject them.

M. Bratianu was determined to lose nothing and to gain everything for his country by an effort that should involve few risks. Hence his view as to the proper time for intervention oscillated in rhythm with the vicissitudes of the campaign.

During 1914 the consciousness of unpreparedness and the appeals of the Entente Allies for concessions to Bulgaria combined to influence Rumania to maintain her neutrality. Nothing

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was to be gained by intervention. But early in 1915 the Russians had overrun not only most of Galicia, but the whole of Bukovina and part of Transylvania. If Rumania was to secure the territory she coveted, then was the time to act and it was confidently expected in the chancelleries of the Entente Allies that she would unite her forces with theirs. But during 1915 the Entente Allies had not yet learned the lesson of a united front in diplomacy any more than in military affairs. Rumania's negotiations were with Russia, and Russia in victory was always far less complaisant than Russia in defeat. The population of Bukovina is only half Rumanian, and the capital, Czernovitz, is in the Ruthenian portion bordering on Russia. The negotiations between the two countries as to the division of the territory dragged on. In the meantime, the military situation on the eastern front called for strenuous action on the part of the Central Powers, for the Russians were about to descend upon the plains of Hungary. With marvelous secrecy and speed, General von Mackensen collected in April an army of 2,000,000 with immense quantities of military stores, and began his great Galician drive. Before the middle of June he had driven the Russians in headlong flight out of Galicia and Bukovina and was evidently preparing for an invasion of Poland. All thought of intervention on the part of Rumania was given up and the series of great victories on the part of the Central Powers during the remainder of 1915 guaranteed her immobility. By the beginning of October von Hindenburg had completely overrun Poland. By December von Mackensen had conquered Serbia. During the same year the Anglo-French drive in the Champagne in August and September had resulted in failure, and the Dardanelles campaign in a fiasco. These events not only increased the great respect of Rumanian officials for German military powers, but they determined Rumania's attitude toward the other Balkan states. When M. Radoslavoff, the Bulgarian prime minister, rejected the Russian ultimatum of October 3, he was quoted by the *Lokal-Anzeiger* as saying among other things, "Our relations with Rumania are cordial. The conflict between Rumania and the Central Powers already has been settled. Rumania will remain neutral during the whole

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of the offensive of the Central Powers against Serbia, even if new complications arise in the Balkans." And she did. The hope of Serbians that she would fall upon the rear of the Bulgarians as she had done in the Second Balkan War was unrealized. The influence of the Entente Allies at Bucharest was at its lowest ebb at the end of 1915. They could offer nothing to induce Rumania to depart from her "expectant neutrality." The sole comfort obtained by the Entente Allies was in the promise publicly made by King Ferdinand to MM. Jonescu and Filipescu that he would abide by whatever decision might be reached by the cabinet and the chambers as to the realization of Rumania's national aspirations.

During 1915 and the first half of 1916 the most influential class in Rumanian politics, the great landowners, had been acquiring much wealth by the sale of their food products at high prices to the Central Powers. To declare war upon the latter would be to lose the only market for Rumanian grain, meat and petroleum, for Rumania would then be isolated from all the world save Russia, and Russia had no need of these three products. Nor could she furnish Rumania with munitions and manufactures. As late as April 7, 1916, Rumania had apparently decided to be permanently neutral, for on that date she concluded a new commercial convention with Germany providing for the free interchange of domestic products. The fact was that only some impressive demonstration that the tide had turned in favor of the Entente Allies would induce Rumania to intervene in their behalf. By August such a demonstration seemed to be provided. The greatest battle in human history, Verdun, had ended in failure for the Central Powers. Their offensive against the Italians had resulted in defeat and the capture of Gorizia by the Italians. The eastern front, which had been denuded of troops to supply men for the offensive against Verdun, and the Italian front were broken, and the Russians had again overrun Galicia and reached the passes into Hungary. The urgent appeals of the Entente Allies that the moment had arrived for Rumania to undertake her work of "emancipation," and the wide-spread agitation of the Francophiles, which had roused public opinion in favor of intervention,

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determined King Ferdinand to call a crown council. After a prolonged session, the council decided upon war against Austria-Hungary, August 27, 1916. The proclamation issued by the king states that Rumania entered the war to safeguard her national interests, to emancipate the Rumanians in Austria-Hungary, and to hasten the end of the war. At once the allies of Austria-Hungary declared war upon Rumania.

The campaign undertaken by Rumania was determined by political as well as by military considerations. An immediate occupation of Transylvania would achieve the very object for which she entered the war, which might be ended upon the principle of *uti posseditis*. Moreover, in his address made at the opening of the Bulgarian Sobranje in December, M. Radoslavoff stated that the Rumanian minister to Sofia had promised the retrocession of the territory annexed by Rumania under the terms of the Treaty of Bucharest provided Bulgaria would maintain a pacific attitude in the event of war between Rumania and Austria-Hungary. Whether Rumania was led by Radoslavoff to believe that Bulgaria would remain neutral or whether she relied partly upon the broad and swift Danube and partly upon a promised offensive against the Bulgarians by General Sarrail at Saloniki to prevent an invasion from the south, she did not, in fact could not, undertake effective measures to defend herself in that quarter. Despite the long period of "expectant neutrality" she was unprepared when war was finally declared. Her total forces immediately available were but 600,000 and she was not provided with what the war had proved to be absolutely essential for a successful campain, viz., enormous quantities of munitions. Nevertheless her initial success in overrunning Transylvania was immediate.

In the meantime a radical revision had been made in the strategy of the Central Powers. The chief of the German general staff, General von Falkenhayn, who was responsible for the campaigns against the western and Italian fronts, was superseded on August 26 by von Hindenburg, the conqueror of Poland. He had consistently favored a defensive campaign on the western front, and on the eastern an offensive of such a character as would compel Russia to make a separate peace. The

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first step to be undertaken under the conditions caused by Rumania's entry into the war was to eliminate her entirely. Field Marshal von Mackensen, who had been von Hindenburg's instrument in the destruction of Serbia in the middle of September just one year before, suddenly invaded the Dobrudja from the south at the head of a large army made up chiefly of Bulgarians and Turks. At the same time von Falkenhayn pushed his Austro-Hungarian and German troops through the passes of the Transylvanian Alps down upon the plains of Wallachia. General Sarrail's offensive from Saloniki was an absolute failure. He actually lost ground instead of moving forward. This enabled the Bulgarians to transfer troops and guns to the north, and another army crossed the Danube at Simnitza southwest of Bucharest. In a brilliant campaign of three months, the armies of the Central Powers drove the Rumanians, and the Russians who had tardily come to their assistance, into Moldavia. Wallachia and the Dobrudja were wholly in their control. Another one of the "small nations" had discovered what it was to tempt the might of Germany.

The entry of Rumania into the war was in the nature of a godsend to the Central Powers. Their military prestige, which had been much dimmed during the spring and summer of 1916, was restored by the spectacular campaign in Rumania, and the depression at home was replaced by confidence. To Belgium, Serbia and Poland, another great territory had been added for purposes of barter when the peace conference assembled. Of as great importance as the strategic and political results was the economic result. The effect of the British blockade was being felt in the territories of the Central Powers, and the failure of the potato crop had resulted in a food shortage. Not only were large quantities of grain made available for the Central Powers by the occupation of Wallachia, but its fertile fields were at once put under scientific tillage by German experts, in anticipation of the needs of the next season. Moreover, one of the richest oil-fields of Europe could now supply them with that much-needed commodity. Rumanian intervention was a diplomatic triumph for the Entente Allies. For Rumania it was a national disaster. *Sic vos non vobis.*

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When the Great War burst upon Europe the statesman who had become known as the maker of modern Greece, Eleutherios Venizelos, was at the helm of government. Venizelos had passed most of his manhood in an effort to secure the union of his native island, Crete, to Greece. He participated in the rebellion against the Ottoman Empire which compelled the powers to intervene and secure autonomy for Crete in 1897. Under the autonomous government he rendered splendid service as minister of justice in reorganizing the laws of the island, and was finally elected prime minister of Crete in 1910. When the Greek army officers who formed the Military League assumed control of the Greek government in 1909 and demanded many governmental changes, including the exclusion of the royal princes from command in the army, Greece passed through a year of anarchy, which finally came to an end only when Venizelos became prime minister in October 1910. He was as successful at Athens as he had been in Crete, securing the adhesion of the Military League to the new constitution that was adopted, and introducing many reforms in internal administration, which brought upon him the hatred of the political parasites with whom Greece was so plentifully provided. As soon as Venizelos had secured the necessary reforms in domestic affairs, he turned his attention to the great problem which troubled all Balkan statesmen, the Macedonian question. His success in foreign diplomacy was as great as in domestic administration. He was the animating spirit in the organization of the Balkan League, which destroyed the power of Turkey in the First Balkan War, and it was due to his skilful diplomacy that Greece emerged from the Second Balkan War with territorial profits far in excess of any other of the Balkan states.

After the Treaty of Bucharest the foreign policy of Venizelos was determined chiefly by two principles. The first was the necessity of protecting Greece from a war of revenge by Bulgaria. To maintain this principle he and M. Pashitch, the prime minister of Serbia, had committed their countries to a defensive alliance against attack by a third power, and Venizelos made the maintenance of that treaty the corner-stone of his foreign policy. The second principle was the necessity of se-

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curing the favor of the maritime powers, France and England. Venizelos believed that the future of Greece was upon the sea and he aimed to strengthen her maritime influence in the eastern Mediterranean. Moreover, he believed that the expansion of modern Greece was to follow the same lines as that of ancient Greece, i. e., to the islands of the Ægean and the shores of Asia Minor. Hundreds of thousands of Greeks dwelt in the coast cities of Asia Minor hoping for the day of deliverance. To realize such a policy demanded the friendship of France and England. Hence when the Great War broke out, Venizelos made no secret of his leanings toward the Entente Allies. Nevertheless when the new session of the chamber opened on October 1, 1914, he declared that Greece intended to remain neutral unless called upon to assist her ally, Serbia.

The great popularity of Venizelos in Greece was equaled by that of King Constantine. Constantine had been compelled by the Military League to relinquish his command in the army in 1909, but had been re-established in it after the adoption of the new constitution in 1910. During the Balkan wars he had shown himself to be a brave and capable commander, and for his successes against Turks and Bulgars, especially in compelling the surrender of the fortress of Janina, he had been given the title of Constantine the Victorious. Like his great minister, Constantine was a strong-minded man, and although he was willing that in domestic affairs Venizelos should have practically *carte blanche*, he did not show the same complaisance in foreign affairs as did his father, whom he succeeded in 1913. He had received his military training in Germany, and like many of his general staff, was a firm believer in the invincibility of the German army. He was married to the Kaiser's sister, and that fact, no doubt, had considerable influence with him. He viewed Russia with distrust and like most Greeks looked with concern upon a Russian occupation of Constantinople, an aim that some Russian patriots put forward early in the war. He also shared the antagonism maintained by his countrymen toward Italy, whose ambitions in Albania and the Ægean brought her into conflict with Greece. It is probable that Constantine was personally pro-German at the beginning of the Great War,

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but there was nothing in his actions or speeches to indicate that he intended to oppose the desires of four-fifths of his subjects to favor, in whatever way was possible, the Entente Allies. In the diplomatic struggle for Greek support which at once commenced at Athens between the representatives of the Entente Allies and the Central Powers, the former had practically everything in their favor. Only unusual blundering could prevent success.

The Central Powers had little to offer Greece in return for a promise of neutrality, but that little was definite and was never diminished. They promised that Greece would not be called upon to undertake hostile action against the Entente Allies and that her territorial integrity would be guaranteed. Their success in securing Turkey's entrance into the war on October 29, 1914, decreased their influence at Athens, for if Greece was to profit by the great struggle, it must be at the expense of Turkey or Albania, or as she hoped, of both, and the success of the Central Powers meant the territorial integrity of both Turkey and Albania. The Entente Allies, on the contrary, after the entrance of Turkey into the war, held out the promise of Greek expansion in Asia Minor in return for Greek support. But at the same time they made the most urgent representations of the need that Greece agree to her own amputation in order to placate Bulgaria. Only in that way was it possible to revive the Balkan Confederation, which would prevent any junction between the Central Powers and Turkey, and would permit of the elimination of the latter from the war. Now the hatred of Greeks and Bulgarians for each other engendered during the Second Balkan War was greater than that between any other Balkan peoples. The territory Greece was urged to relinquish was the rich, fertile district in which was raised the celebrated Turkish tobacco. And of the statesmen Bulgarians looked upon as responsible for their disgrace, no one to them was so blameworthy as Venizelos. Had a group of European powers suggested to Germany, in 1872, that for some common good she return Alsace-Lorraine to France, and that Bismarck undertake the negotiations, the favor with which the suggestion would have been received in Germany and the faith that would have

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been placed in the proposal by France, offer an analogy to the situation in the Balkans in 1914.

Nevertheless Venizelos considered that the golden opportunity had come to realize Greek ambition for expansion to Asia Minor. On January 24, 1915, and again on January 30, he submitted statements to Constantine suggesting that if by retroceding the Kavala district to Bulgaria the Balkan Confederation could be re-established, the sacrifice would be worth while. Greece would be relieved of the fear of an attack by Bulgaria and would receive the vilayet of Smyrna in Asia Minor, which has a population of almost one million Greeks. Venizelos had secured from Sir Edward Grey the promise of Great Britain's benevolent attitude toward the acquisition of Smyrna by Greece. Venizelos afterward stated that the king withdrew the objection which he had at first made to the plan and authorized him to proceed with the negotiations. But early in February the Disconto Gesellschaft made a loan of $30,000,000 to Bulgaria, and although M. Radoslavoff, the Bulgarian prime minister, made a public statement that the loan had not in any way committed Bulgaria to the Central Powers, Venizelos was convinced that Bulgaria had determined to throw in her lot with the Central Powers. Hence he did not make the offer.

On February 19, 1915, the British fleet began its attack upon the Dardanelles forts, and at the same time the Entente Allies invited Greece to participate in the campaign, in return for which she was to receive the vilayet of Smyrna. The proposal was warmly advocated by Venizelos, and early in March the king called a crown council to consider intervention. The general staff of the army was strongly opposed to participation in the Dardanelles campaign. To strip Greece of troops to engage in it would be to open the country to invasion by its worst enemy, Bulgaria. Moreover, the general staff could see no hope of success for the Entente Allies. Before the war, it had worked out a plan of campaign against the Dardanelles and concluded that success would require a very large army to co-operate with the fleet, a far larger army than the Entente Allies had at their disposal. Were Greece to enter the

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campaign, she would have to bear the brunt of the fighting for a territorial reward which would still have to be conquered. The political consequences also were dangerous. During the First Balkan War, the Turks had driven thousands of Greeks out of Asia Minor and confiscated the property of other thousands. Participation in the Dardanelles campaign would almost certainly have the same effect. So hazardous a step ought to be undertaken only if success were assured. The king refused his approval of the policy of intervention, and on March 7 Venizelos resigned.

Upon accepting office on March 10, the new ministry led by M. Gounaris issued a statement of policy which implied that Venizelos had negotiated for the surrender of Greek territory to the arch-enemy Bulgaria. This called forth an indignant protest from Venizelos, who a little later demanded that the government officially deny the implication made in their statement of policy. Instead, the king wrote him a public letter in which he asserted that Venizelos had proposed the cession of the Kavala district to induce Bulgaria to revive the Balkan Confederation. Venizelos then published his memoranda of January 24 and January 30 to prove that he had suggested the cession of the Kavala district only as a last resort, that the king had authorized him to conduct negotiations with the cession as a basis, but that he had not made the offer because of Bulgaria's receipt of the German loan. The king replied on April 6 with another statement denying absolutely that he had ever authorized Venizelos to negotiate for the cession of any Greek territory. Poor Greece! Not only did its two leaders, both respected and admired by the people, wholly disagree as to the policy that the country ought to pursue, but there had developed a personal antagonism between them which boded ill for the country. Meanwhile the French and English press were lauding Venizelos and denouncing Constantine for their respective attitudes upon the Dardanelles expedition. This did not advance the cause of the Entente Allies at Athens. Before deciding against intervention, Constantine as commander-in-chief of the Greek army had carefully weighed the chances of success of the expedition. The total failure of the campaign proved the wisdom of his decision.

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As Gounaris was opposed by a majority of the chamber, he first secured an adjourment for a month and then a dissolution. But in the general election of June 13, despite a strong bid for popular support made in his statement that under no circumstances would he alienate Greek territory, but on the contrary would seek every opportunity to increase it, he was defeated. The Venizelists controlled 186 of the 316 seats in the new chamber. Gounaris delayed the opening of the chamber a month after the time originally fixed and resigned August 16, when he was decisively beaten in the first important division. A short time previous to his resignation the Entente Allies, alarmed at the rumors of Turkish concessions to Bulgaria in the matter of the Dedeagatch railroad, made a final effort to secure territorial concessions from Greece. This request was flatly refused by Gounaris who, moreover, forestalled any such action on the part of Venizelos by publicly stating that not a single inch of Greek territory would be ceded to Bulgaria. As Venizelos was the only statesman that could command a majority in the chamber, the king on August 23 reluctantly asked him to take office.

Venizelos' tenure of office, however, was very short. On September 21, 1915, Bulgaria mobilized her army, Radoslavoff stating that the action was not in any way preparatory to war. Venizelos was not deceived, however, and on September 25 ordered the mobilization of the Greek army. He did more. Under the provisions of the Serbo-Greek treaty of 1913, in case of joint action by Serbia and Greece against Bulgaria, Serbia was to contribute an army of at least 150,000 troops. As Serbia was preparing for the impending Austro-German invasion, the impossibility of her carrying out this provision of the treaty was obvious. Venizelos, therefore, inquired of France and Great Britain whether the Entente Allies would make good Serbia's deficiency. Venizelos was convinced that neutrality would not avert but only postpone war between Greece and Bulgaria. Hence, not only did honor demand fulfilment of the treaty with Serbia, but wisdom also dictated that a war with Bulgaria should be undertaken under the most favorable conditions for a successful outcome, viz., in union with Serbia and

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the Entente Allies. When troops of the Entente Allies did land at Saloniki on October 2, Venizelos made a formal protest against their violation of Greek neutrality "to keep the record straight." The Serbo-Greek treaty came into effect only when Bulgaria attacked Serbia, and that had not yet taken place. But Venizelos was preparing for what he knew was about to take place, and after defending his action in the chamber on October 4, he was sustained by a vote of 142 to 104. The next day he announced his resignation because of the king's refusal to approve his policy.

The king denied, in the first place, that he had ever consented to an "invitation" to the Entente Allies to send troops to Greece. He stated that Venizelos had only informed him that an "inquiry" had been sent to them as to whether they would be willing to replace the Serbian contingent. To the detached student of Balkan affairs, it is futile to attempt to evaluate the relative veracity of Venizelos and Constantine. The two men were in absolute disagreement as to the policy their country should undertake and they were now in such personal antagonism that not only was co-operation between them impossible, but belief in each other's integrity had practically disappeared. When we consider the reasons given by the king and his adherents for his refusal to consent to the cabinet's action we are on more solid ground. The first contention was that according to the provisions of the Serbo-Greek treaty Serbia was not to cede to a third power without the consent of Greece any of the Macedonian territory secured by her in the Second Balkan War. As Serbia had agreed to the proposal of the Entente Allies to retrocede most of Macedonia to Bulgaria, she thereby rendered the treaty null and void. As a matter of fact, Serbia was so convinced of the importance to her safety of the alliance with Greece, that one of the reasons which for more than a year had prevented her acceding to the appeals of the Entente Allies, was her resolve to do nothing that would endanger that alliance. She could hardly have agreed to the cession in question without some kind of understanding with Greece. The second contention for the maintenance of Greek neutrality was that the Serbo-Greek treaty was never intended to apply in the

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case of a European as opposed to a Balkan war; that it was aimed exclusively against a Bulgarian attack upon one of the signatories and could not be expected to function in the case of an attack on one of them by two great military empires. As the treaty was a secret pact, the provisions of which have not been divulged, one is left his choice of accepting the king's interpretation or that of Venizelos, who contended that to desert Serbia was a violation of the spirit and intent of the treaty.

The fact is that the arguments of the adherents of Constantine for maintaining neutrality were not his real reasons. Although Greece had obtained a great extension of territory by the Balkan wars, her resources had been strained almost to exhaustion. The Great War was rapidly enabling her to recover. The mercantile marines of France, Italy and Great Britain were engaged chiefly in the transportation of troops and munitions, and that of the Central Powers had disappeared from the seas. Greece was rapidly securing a monopoly of the carrying trade of the eastern Mediterranean and did not wish to take a step that might hinder that development. The chief reason, however, for the king's decision was that prestige and power were with the Central Powers. When Venizelos resigned on October 5, 1915, the Dardanelles expedition had totally failed, the Anglo-French "drive" in the Champagne had accomplished nothing and von Hindenburg had driven the Russians from Poland. There is no reason to doubt the sincerity of the king's belief that intervention on his part would result not only in the rapid overrunning of Serbia by the Central Powers, but in the destruction of Greece. He is a good soldier and at the beginning of December, in an interview with the correspondent of the Associated Press, stated:

> Certainly the Allied expedition to the Balkans is doomed to failure if undertaken with no more men than are now there or on their way. . . . The minimum army that can hope to accomplish anything in the Balkans is 400,000. As that number is not being sent, that is no proof that it is Greece that must suffer—Greece that must pay the penalty for the failure of the Allied Balkan venture.

This prediction was soon verified. The advance of the Anglo-

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French army up the Vardar valley into Bulgarian Macedonia ended in a fiasco. The army would have been annihilated but for the willingness of its commander to retreat into Greek neutral territory. The Bulgarians stopped on the frontier, anxious to avoid offending Greece, while the Anglo-French forces hastened to Saloniki where they engaged feverishly in digging themselves in. Though the great majority of the Greek people were pro-Ally, there can be little doubt that the king's decision met with their approval. The Entente Allies were undoubtedly trying to force Greece to exchange a safe neutrality for risks that might be fatal. Not the king's obstinacy but the Allies' stupidity brought about the desertion of Serbia by Greece. The Entente Allies were always rich in promises, poor in performances. The king could never have prevented Greece from abiding by the treaty of 1913, had the Entente Allies not made it evident that they expected Greece to stake her destiny on the campaign, to push forward her army in advance of Allied assistance. The Greeks were thoroughly aware that Serbia early in the summer had suggested that the Entente Allies send troops to its support and that the troops were not forthcoming. They had no reason to suppose that their own experience would be different.

It would have been a fortunate thing for Greece and for the Entente Allies also, had the latter evacuated Saloniki after the failure of the Vardar campaign. The Central Powers understood that Greece with its long seacoast and insular possessions could not afford to enter the war against the Entente Allies, but they did demand that as a neutral state Greece should intern their enemy who had been defeated in Bulgaria and had retreated into Greek territory. But by that time the benevolent attitude af the Entente Allies to Greece had given way to one of coercion. When Venizelos resigned on October 5, 1915, he was succeeded by Alexander Zaimis. His ministry existed, of course, at the sufferance of Venizelos, who commanded a majority of the chamber. When Bulgaria attacked Serbia on October 14, Zaimis refused to enforce the Serbo-Greek treaty and on October 17 declined Great Britain's offer of the island of Cyprus in return for active Greek military sup-

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port. As Venizelos had permitted the ministry to exist only provided the question of war was merely one of time and not of doubt, he brought about the defeat of the ministry on November 4, by a vote of 147 to 114. The king then called M. Skouloudis to office, dissolved the chamber, and called for new elections on December 19. Now not five months had passed since Venizelos had received the approval of the people and secured a majority of the chamber, as the result of a general election. In the meantime, a large part of the electors had been called to the colors, and as Greek soldiers cannot vote when in service, a new election could not be at all representative of the will of the people. Venizelos, therefore, declaring that the king had launched upon a policy of arbitrary government and that his action was unconstitutional, requested his followers to abstain from voting at the election to show their disapproval of the king's policy. The result was that the Skouloudis ministry, the fifth in the year 1915, secured a majority of the chamber, which was elected by a minority of the voters.

The Skouloudis ministry, while professing to maintain an attitude of benevolent neutrality toward the Entente Allies, firmly opposed any of the latter's demands that would result in a breach of strict neutrality. The press of the Entente Allies, therefore, soon adopted the position of Venizelos that the existing Greek government was unconstitutional, and demanded that France, Great Britain and Russia enforce the treaty of 1864, whereby "Greece under the sovereignty of the Prince of Denmark and the guarantee of the three courts forms a monarchical, independent and constitutional state." As Greece was no longer a constitutional state, the press of the Allies demanded that the guaranteeing powers perform their duty by intervening to secure such a state—which meant, of course, the return of Venizelos to power. Just what liberal England, Napoleonic France, and autocratic Russia had in mind by the term "constitutional state" when they negotiated the treaty of 1864, it would be hard to say. It must always have had a very vague meaning, for when the army under the Military League really subverted the constitution in 1909, none of the guaranteeing powers hinted at intervention. But the exasperation of the

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Entente Allies at the recalcitrant attitude of the Skouloudis ministry gradually overcame Sir Edward Grey's reluctance to sanction any dealing with Greece which might be interpreted in neutral countries as smacking of "Prussianism." Lack of space permits only an enumeration of the chief incidents which gradually transformed the attitude of the majority of the Greek people from one of enthusiasm for the Entente Allies to one of ill-concealed hostility.

In December 1915 the Entente Allies demanded of Greece that it give formal assurance that the allied troops be in no case disarmed or interned and be granted full freedom of action; also that all requisite railway facilities be placed at the disposal of the Entente Allies for the transport of troops and supplies. The Greek government declared its readiness to concede such facilities as would not transgress the limits prescribed by the observance of neutrality. As this answer was unsatisfactory, the Entente Allies ordered a commercial blockade of the Greek coast, which was maintained until the Greek government yielded. This action antagonized not only the influential commercial class, whose vessels could neither enter nor depart from Greek ports, but also large numbers of the poorer people, who suffered from the advance in the price of food products. On January 11, 1916, the Allies assumed control of the island of Corfu as a place of recuperation for the Serbian troops that had escaped annihilation. The Greek government maintained that the territory of one of the Allies, Italy, was near enough for such a use and objected to the violation of Greek neutrality. In late March the Allies took control of the island of Cephalonia as a naval base. In April they requested permission of the Greek government to transport the recuperated Serbian army by rail to Saloniki in order to avoid the danger of submarines. The Central Powers protested that compliance with the request would be regarded by them as an unfriendly act and the request was refused.

On May 26 occurred the most serious of all the untoward incidents, one which went far to convince the Entente Allies that the Greek government was working in the interests of the Central Powers. The commander of the garrison of Fort

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Rupel, the strongest of the forts on the northeast frontier, surrendered to the Bulgars after telegraphing to Athens for instructions. The government that had once asserted that it would never cede a foot of Greek territory to Bulgaria defended its action on the twofold ground that resistance would be useless, and that in view of what the Allies had already done in Greece, it could not without inconsistency have acted otherwise in applying the principle of neutrality. Moreover, it stated that it had secured, not from the Bulgarian but from the German government, a written promise to restore the forts in good condition. The Entente Allies looked upon the surrenders of Rupel and the neighboring forts as evidence of a deliberate agreement by the Greek government with the Central Powers to shut up the allied troops in Saloniki. In conjunction with the belief that the Greek army would strike them in the rear if they commenced operations, the surrenders certainly had the effect of immobilizing the half-million men concentrated by the Entente Allies in the neighborhood of Saloniki. The Entente Allies, therefore, determined to take precautionary measures. The only reasonable precautionary measure was to act upon the suggestion of some of the Allied press and hold the king responsible. Instead, the Entente Allies proceeded to punish the whole Greek people. They not only resorted to a commercial blockade of Greece, but laid an embargo upon Greek vessels in their ports. At the same time the ministers of the Entente Allies presented a note to the Athens government in their position as the "Protecting Powers of Greece," making a clear distinction between the Greek people and the Greek government, which had "evident collusion with the enemies of the Allies." The note demanded: (1) complete demobilization of the Greek army; (2) a new ministry pledged to show the real benevolent neutrality to the Allies that had been promised; (3) immediate dissolution of the chamber and fresh elections within the time limit provided by the constitution; and (4) dismissal of police officials that had insulted the Allied legations and oppressed peaceable citizens. This demand refers to certain police officials of high position believed to be in the pay of the Central Powers and guilty of oppression of Venizelists.

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The Greek government protested indignantly in a note to the Department of State at Washington against the interference with their commerce. The note stated that the Allies not only had blockaded the Greek coast, but had seized Greek ships which they sometimes turned into transports for their own purposes. As a result the Greek sea trade had been ruined and the Greek people deprived of necessary food supplies. Nevertheless on June 28 the Greek government acceded to the four demands of the Allies.

The surrender of Fort Rupel and the other forts on the Bulgarian frontier was a strong blow to the prestige of Constantine. The street demonstrations that occurred upon receipt of the news showed him that public opinion was against the government's tame surrender and would not back him in withstanding the Allies' demands. Hence he yielded. But each demand of the Allies in violation of Greek neutrality not only met with a hostile reception, but when accepted, was carried out with reluctance and incompleteness; e. g., the army was never completely demobilized. The attitude of the Allies on the other hand was always characterized by vacillation. At one time it was peremptory, at another apologetic. The Allies were determined to prevent the Central Powers from reaching the Greek coast at all hazards, but instead of securing their object by adopting a bold policy with the king, they pursued a policy of pinpricks which injured his subjects more than himself and gave him the position of a martyr. On September 4, 1916, the Allies demanded that the Greek government hand over to their representatives the telegraph and postal systems, on the ground that they were being used in the interests of the Central Powers by the notorious Baron von Schenk and other German agents in Greece. Moreover, they insisted that von Schenk and his confrères be arrested and expelled. The king's adherents had no difficulty in pointing out that German agents were active in the United States, Spain and other neutral countries, and that the Allies made no protests to the governments concerned.

On September 12 occurred an event which gave the Allies an opportunity to settle the status of Greece in their own favor and nevertheless retain the sympathy of most of the Greeks.

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On that day the Bulgarians occupied the Greek seaport of Kavala, and the garrison of 10,000 troops was sent to Germany as "guests." This event roused the greatest indignation throughout Greece. The Greek garrison at Saloniki had revolted upon the surrender of Fort Rupel, and in union with discontented civilian elements had established the "Provisional Government of Macedonia." The revolt now spread to most of the Greek islands, and the kingdom was soon divided between two governments: the Royalist, which maintained authority over most of old Greece, and the Nationalist, which controlled the territory acquired by the Balkan wars. The latter region was the one in which the influence of Venizelos was strongest, and on September 20 he issued a statement in which he said he "would wait a brief time yet to see what the government purposes to do before deciding on the course it will be best to adopt in the event that Greece does not enter the war." As the government apparently purposed to do nothing, on September 25 Venizelos, Admiral Condouriotis, commander of the Greek navy, and a considerable number of army and navy officers and civilians of influence left Athens, and after making a tour of the islands, landed at Saloniki, where Venizelos became the real head of the "Provisional Government of Macedonia." When leaving Athens Venizelos made a statement in which he affirmed that the Nationalist movement was in no sense to be considered anti-dynastic. Nevertheless, since the Allies were determined to control Greece, they should not have missed this opportunity to realize their desire by recognizing the Venizelos government as the government of Greece. Had they done so, it is hard to see how the government at Athens could have maintained itself. But a month passed before the Allies gave the Venizelos government formal recognition as the "Provisional Government of Macedonia," and they sent no representatives to it until 1917. This is but one of the many instances of indecision due to the lack of unity among the Allies. The best advices lead one to believe that the French were anxious to take drastic measures with Constantine and that the British were willing to follow them, but that the Czar was opposed to a violation of the dynastic principle.

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In the meantime the campaign in Rumania, which at its inception Constantine had predicted would fail, was progressing very badly for the Allies, to the great satisfaction of their opponents in Athens. Due to a professed belief in the existence of a Greek Royalist plot to send Greek troops to Thessaly to co-operate with a German army in an attack upon the Allies at Salonki, the Allies determined upon drastic measures. On October 11 the French Admiral du Fournet, the commander of the Allied naval forces in Greek waters, demanded that the Greek government hand over its navy to the Allies with all materials for naval operations, and though the Greek government protested, it nevertheless complied. Within a fortnight the French admiral demanded and received the right to appoint the officers in control of the Greek police, prohibited Greek citizens from carrying arms, established a French censorship of the press, and assumed control of the port of Piræus, from which only shipping manifests viséd by the Allies would be valid. In the meantime civil war had begun on the frontier of old Greece between Royalist and Nationalist troops, and the Greek government and General Sarrail found it necessary to agree upon the demarcation of a neutral zone between the two Greek armies. On November 20, Du Fournet demanded that the Greek government expel the representatives of Germany, Austria-Hungary, Turkey and Bulgaria. The representatives left at once after informing Constantine that they did not hold the Greek government responsible for their expulsion nor consider it a breach of Greek neutrality. At the same time Du Fournet demanded that all the arms, munitions, artillery and equipment of the Greek army except 50,000 rifles be turned over to the Allies as compensation for those sent to Germany when the Fourth Army Corps surrendered at Kavala. This the Greek government refused, as such action not only would be a violation of neutrality, but would leave the government powerless to protect the national interests. Du Fournet then sent an ultimatum to the effect that if the demand did not meet with compliance by December 1 he would land Allied troops at all necessary points to compel acquiescence. Constantine at this crisis called a crown council, which supported the gov-

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ernment in its refusal. Energetic measures were undertaken to enforce the authority of the government. Troops were brought from the interior to Athens, the French officers in control of posts and telegraphs were expelled, and the government resumed control of those agencies. On December 1 Du Fournet landed a detachment of French marines, afterward followed by British marines, who advanced to Athens. Violent fighting took place about the Royal Palace between the Allied and Royalist troops, and between Venizelists and Reservists, civilian adherents of the king. The Allies were badly defeated and would have been compelled to surrender, had not the fleet begun to shell the city. Toward evening an armistice was arranged whereby Du Fournet agreed to retire with all his forces save 300 marines left as a guard, and to accept part of the equipment demanded instead of all. During the fighting the Reservists obtained control of the city and inaugurated a reign of terror. The Venizelists were everywhere driven from their homes, beaten, and then thrown into prison. The reports indicate that many were killed and over a thousand imprisoned. Once more the Allies had given evidence of their ineptitude. Having determined upon a policy of coercion, they proceeded to carry it out in a manner which brought discredit upon themselves, disaster to their Venizelist adherents, and prestige to their opponents.

Having failed in their measures directly to coerce the king, the Allies resorted to the device they had already used successfully to coerce him indirectly through the people, viz., the blockade. On December 8 the entire coast of Greece under the control of the royal government was placed under a rigid blockade, which was to continue until reparation was made for the outrages committed in Athens on December 1. The Greek government denied that the initial attack in the conflict had been made by its troops and offered to refer the question to arbitration. On December 9 the Allies demanded the immediate release of the Venizelists imprisoned throughout the country since December 1, numbering, according to report, over 1600. The Athens government maintained that many of them were guilty of rebellion and treason and would have to await trial.

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Demands on the one side and explanations on the other continued throughout the entire month. Finally, on December 31 the Allies sent a peremptory note to the Greek government containing the following demands: (1) All Greek forces outside the Peloponnesus to be reduced in number to mere police needs and the artillery and equipment thus set free to be sent to the Peloponnesus. (2) All meetings of Reservists in Greece north of the isthmus of Corinth to be prohibited and measures forbidding civilians carrying arms to be rigorously enforced. (3) All political prisoners detained on charges of sedition and treason to be released at once and persons proved to have suffered unjustly in the events of December 1 to be indemnified. (4) The posts, telegraphs, railways and police to be restored to the control of the Allies. (5) The commander of the First Army Corps to be removed unless someone else was proved, to the satisfaction of the Allies, to have been guilty of the outrage of December. (6) The flags of the Allies to be formally saluted in the principal square of Athens in the presence of the assembled garrison, and the Greek government to present formal apologies to the ministers of the Allies for the events of December 1. The Greek government objected to certain provisions of the Allies' demands, particularly to that referring to the immediate release of the Venizelists, who had supplanted the Allies as the object of the Royalists' greatest hatred. On January 9, the Allies answered the protest by an ultimatum giving the Greek government forty-eight hours in which to comply. By this time the blockade had reduced a considerable part of the Greek people to short rations, and the government as a matter of necessity acceded completely to every demand in the note of December 31. However, as late as February 18 the Barristers' Association of Athens telegraphed to Prime Minister Lloyd George a request that he raise the blockade, as many people were on the verge of starvation. He telegraphed back that the blockade would be raised when the conditions of the ultimatum were fulfilled, but that if the activity of the Reservists and outrages such as the secret mining of the Corinth Canal were to continue, the blockade would be maintained. It has since been partially raised.

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Greece owed its liberation from Turkish thraldom in 1829 to the three allied states, France, Great Britain and Russia. Moreover, these states sustained the Greek people in their contest with their kings in 1830 and 1863. It was due chiefly to France and Great Britain that Greece was saved from the severest penalties after the disastrous war with Turkey in 1897. And it was due more to French support than to any other factor that Venizelos was so successful in securing the great territorial expansion of Greece by the Treaty of Bucharest of 1913. Gratitude demanded that Greece be pro-Entente at the beginning of the war, and the Greeks were grateful. Moreover, Greece is primarily a mercantile country, and self-interest points to the need of friendly relations with the great mercantile states. These and other influences combined to make the overwhelming majority of Greeks favor their country's siding with the Allies when the Great War broke out. It is absurd to suppose that the obstinate attitude of any one man can have dissipated such a deep sentiment. The events described in this article explain to some extent the resentment that gradually developed among Greeks toward the Allies. No single step seems to have been left untaken to hurt their pride. When the Greek government announced the formal annexation of northern Epirus, which it had occupied early in the war, the Allies at once notified it that the powers of Europe had placed northern Epirus in the new state of Albania. The Greek government was therefore forced to announce that the occupation of that region was merely a police measure. Many Greek patriots did not fail to draw the conclusion that the region in question, inhabited by Epirote Greeks who had revolted against inclusion in Albania, was part of the price paid to Italy for her entrance into the war on the side of the Allies. The final disposition of territory will no doubt be settled in a European conference at the end of the war. This action of the Allies is cited merely to illustrate the way in which Greek susceptibilities were unnecessarily hurt. Today Greece is divided against itself. The new territories secured during the Balkan wars, including the Ægean islands and the Saloniki region, are under the Nationalist government. These territories have been

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under Allied control since October 1915. The rigid censorship and police measures of the Allies have prevented any pro-German propaganda. The people of Saloniki have, moreover, profited immensely by the presence of the Allied armies. The Nationalist government declared war against the Central Powers in November 1916, and its adherents are fighting side by side with the Allies. Old Greece remains formally neutral, though its neutrality is a matter of shreds and tatters. After the Rumanian debâcle, the king could not be "kicked into war." The fact that, despite the expulsion of all of the agents of the Central Powers and the presence of the forces of the Allies, there has been no popular uprising against the king, is fairly good proof that the Allies have lost the sympathy of the bulk of the people in old Greece which they enjoyed in 1914.

When the Great War broke out, the Balkan states were evenly divided in their sympathies, Turkey and Bulgaria favoring the Central Powers; Rumania and Greece, the Entente Allies. As a result of the diplomacy of the Central Powers, Turkey and Bulgaria today are firmly riveted to them. As a result of the diplomacy of the Entente Allies, Rumania has suffered national disaster and Greece has become hostile. To every well-wisher of the Allies in the stupendous conflict in which most of the European states are engaged, this lamentable failure is indeed distressing.

STEPHEN P. DUGGAN.

COLLEGE OF THE CITY OF NEW YORK.

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THE NEGRO VOTE IN OLD NEW YORK

THE attachment of the colored citizen to the Republican party is usually explained by reference to the memory of Lincoln, Stevens, Grant and Sumner; but in New York, at least, the freedman learned to vote against St. Tammany before most of those apostles of his "rights" were born, and the jealous hatred of poor mechanics helps far more than reconstruction policies to account for the attitude of New York Democrats towards Negro suffrage.

The appearance of the Negro in the Hudson River region is no novelty of recent years. The Dutch brought the *swarten* to the colony before Manhattan houses were a decade old;[1] when the English made Fort Amsterdam Fort James, the encouragement of the slave trade with New York became an object of solicitude in London.[2] The demand for "negears" was larger and more steady here than in other colonies of the same latitude,[3] yet slaves were not massed in large plantations but scattered by twos and threes as household servants among the well-to-do, chiefly in the houses of the aristocracy.[4] They were treated with a careful kindliness, and in return they developed an affection for the master that no shock of fortune could disturb.[5]

[1] Mrs. S. Van Rensselaer, History of the City of New York in the Seventeenth Century, N. Y., 1909, vol. i, pp. 191–195.

[2] Instructions to Governors Bellomont, Hunter etc., in N. Y. Colonial Documents.

[3] H. R. Stiles, History of the City of Brooklyn, Albany, 1869, vol. i, p. 231.

[4] In the Documentary History of New York (edition of 1850), vol. iii, pp. 505–521, is a list of slave-holders in the colony in 1755. Few masters had more than five slaves. The rolls of New York city and Albany have been lost, but we are able to form some estimate of the distribution of slaves in the "Wills on File in the Surrogate's Office," abstracts of which have been printed in the Collections of the New York Historical Society, volumes from 1900 to 1906 dealing with the years 1780 to 1800. See also Stiles, *op. cit.*, vol. ii, p. 65, and J. Munsell, Collections on the History of Albany, vol. i, p. 60, vol. ii, pp. 49, 382.

[5] C. F. Hoffman, The Pioneers of New York (delivered before St. Nicholas Society), N. Y., 1848, pp. 30–33; T. E. V. Smith, The City of New York in the Year of

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What was the partizan connection of New York slave owners? The Federalist party was the party of the aristocracy, especially in large communities,[1] the party of the wealth won by a century of trade. Since slaves in this colony were a luxury rather than an investment in agriculture, we should expect to find them belonging largely to members of this party; the records show such to have been the case.[2]

A great historian has truly remarked: "That New York is not a slave state like South Carolina is due to climate and not to the superior humanity of the founders."[3] Slavery for them did not pay. The Federalist masters preferred to see their Negroes free, and led the movement in New York state for their betterment. Governor John Jay organized the Society for Promoting the Manumission of Slaves and became its first president in 1785;[4] he was succeeded by Alexander Hamilton.[5] It was Rufus King who had moved "that there shall be neither slavery nor involuntary servitude in any of the states described in the resolve of Congress of 23rd of April, 1784," dealing with the Northwest Ordinance.[6] General Schuyler was found, when the time came, voting for emancipation of

Washington's Inauguration, N. Y., 1889, p. 122. For legal status of slaves see E. V. Morgan, "Slavery in New York," Papers of the American Historical Association, vol. v, pp. 337–380.

[1] A. C. McLoughlin, The Confederation and the Constitution, N. Y., 1905, pp. 290–291. C. A. Beard, Economic Interpretation of the Jeffersonian Democracy, N. Y., 1915, *passim*. On the New York aristocracy, see T. Roosevelt, Gouverneur Morris, Boston, 1892, pp. 17 *et seq.*

[2] E. g., "Wills" as cited, liber xxxix, p. 127; xli, pp. 48, 128, 141; xlii, p. 191; N. Y. Doc. Hist., vol. iii, pp. 510, 512, 514, 519, for well-known Federalist names.

[3] George Bancroft, History of the United States (edition 1883), vol. i, p. 513.

[4] Wm. Jay, Life of John Jay, N. Y., 1833, vol. i, pp. 229–235; vol. ii, p. 406. It was Jay's custom to purchase slaves of promise that he might, after due instruction, set them free. G. Pellew, John Jay, p. 294. See also Correspondence of John Jay, N. Y., 1893, vol. iv, p. 320.

[5] For Hamilton on slavery see "A Full Vindication," in Works (edited by J. C. Hamilton), N. Y., 1851, vol. ii, p. 9, and vol. vi, p. 298. See also F. G. Mather, "Slavery in the Colony and State of New York," in *Magazine of American History*, vol. ix, p. 408.

[6] The Life and Correspondence of Rufus King (edited by C. R. King), N. Y., 1900, vol. i, pp. 39, 268–292. On King's later stand against slavery see J. Q. Adams, Memoirs, Philadelphia, 1877, vol. vi, p. 467.

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the Negroes of the state.[1] Next to Jay in his importance in the constituent convention at White Plains in 1776 was Gouverneur Morris, who made most earnest efforts for some scheme of gradual emancipation.[2] Party editors from Noah Webster[3] to William L. Stone[4] took up the cause with much enthusiasm. Certainly the leaders of the party might lay a claim to the black man's loyalty, and the party followed their leaders on this question. They finally enacted a well-calculated scheme of gradual emancipation which prevented the distress of any sudden readjustment.[5] The measure was opposed by the party of the small tradesman and the mechanic, for reasons of economic jealousy as we shall see. The workman did not like to see the Negro change his butler's coat for cap and jeans, and his salver for pick and shovel. It was a Federalist legislature and a Federalist governor who enacted the law of 1799, by almost a straight party vote of sixty-eight to twenty-three.[6] The Negroes had been reared in Federalist households; their cause had been advocated by distinguished Federalists, and now under the auspices of that party, freedom was provided. When they reached the estate of citizens, their political attachment could be easily foretold.

[1] N. Y. Assembly Journal, 1799, pp. 47, 49, 77.

[2] Jared Sparks, Life of Gouverneur Morris, Boston, 1841, vol. i, p. 125. See also his speeches in the Federal Convention of 1787, The Records of the Federal Convention (edited by Max Farrand), New Haven, 1911, vol. ii, pp. 221, 415, 417, 574. See also A. J. Northrup, "Slavery in New York," in N. Y. *State Library Bulletin*, History, no. 4, 1900.

[3] See his Effects of Slavery on Morals and Industry (pamphlet), Hartford, 1793; see also Frederick Hudson, Journalism in the United States, N. Y., 1873, p. 192.

[4] W. L. Stone, Jr., Life and Writings of William Leete Stone (bound with W. L. Stone, Life of Red Jacket, 1866), pp. 41–42.

[5] After July 4, 1799, no man or woman was to be born a slave; C. Z. Lincoln, Constitutional History of New York, Rochester, 1906, vol. i, p. 658; also comment in J. H. Dougherty, Legal and Judicial History of New York, N. Y., 1911, vol. ii, p. 94. Those who set free their slaves had to guarantee that their freedmen would not become public charges.

[6] See on the principle of general emancipation, N. Y. Assembly Journal, 1799, p. 77. Comparing the names of the minority with those who voted for Addison and Haight, the candidates of the opposition for members of the Council of Appointment (*cf.* J. D. Hammond, History of Political Parties in the State of New York, N. Y., 1842, vol. i, p. 122), we see that of those who objected to the measure all but three were Republicans.

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In numbers they were not to be neglected. New York had been the most important slave state in the North, and continued to have more Negroes than any other state in that section.[1] In New York city the proportion of Negroes to whites at the beginning of the nineteenth century was several times larger than now.[2] As soon as any slave was freed he became a voter, on the same terms as a white man, namely, if he paid taxes to the state, if he owned a freehold of the value of twenty pounds, or if he rented a tenement of the yearly fee of forty shillings.[3] In the eighteenth century manumission had not been uncommon, and it became more general after 1800. The erstwhile slave became in politics a client of his former master. To say that Jay or Hamilton in urging manumission had been largely moved by the hope of adding to the Federalist vote would be not only ungenerous but absurd. Yet it was only natural that in his voting, as well as in his talk and dress, the Negro should follow the example of his former master. In Brooklyn, for example, five of the thirteen Federalist candidates in 1810 were men who had set free their slaves, while there was but one such among their opponents.[4] The credit for the first manumission under the new law in this community goes to John Doughty, who served his generation as town clerk from 1796 to 1830,[5] who registered the birth of every child of slave parents after 1799, and in whose ceremonious presence almost every manumitted slave was given his certificate of liberty.[6] Is it to be expected that the freedmen who came into Albany

[1] U. S. Census of 1790; Census of 1820, supplement, p. 1.

[2] See table in Mary H. Ovington, Half a Man, N. Y., 1911, p. 10; and *Analectic Magazine*, vol. xiii (1819), p. 279.

[3] Constitution of 1777, article vii, in U. S. House Documents, vol. xci, part 1, pp. 2630–2631. The New York pound was the equivalent of $2.50.

[4] Compare the ticket printed in the *N. Y. Herald*, April 7, 1810, with the list of manumissions, 1797 to 1825, as printed in the Corporation Manual of the City of Brooklyn, 1864, pp. 153–165. Jacob Hicks, the Quaker, was the single Republican nominee who had held slaves.

[5] Corporation Manual of the City of Brooklyn, 1864, pp. 167–179.

[6] T. F. DeVoe, in *Historical Magazine*, Second Series, vol. ii, p. 342. E. A. Doty, "The Doughty Family on Long Island," in the N. Y. Genealogical and Biographical Record, vol. xliii, p. 321; H. R. Stiles, *op. cit.*, vol. ii, p. 65.

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from Rensselaerwyck where they had been so kindly treated,[1] or those who came from the great house of General Schuyler where so many had been granted freedom,[2] would vote against "the lord"?[3]

On this question the political philosophers of Tammany Hall had entertained but little doubt; they soon saw their forebodings realized. When in 1808 the colored voters in a meeting held in New York city voiced unanimous approval of the "old party," Republicans prepared a campaign song beginning "Federalists with blacks unite."[4] In 1809 a Negro orator drew applause from a large audience when, after picturing the sad conditions under Jefferson, he exclaimed, "How important then, that we, my countrymen, should unite our efforts with those of our Federal friends in endeavoring to bring about this desirable change, so all-important to commerce, to our own best interests, and the prosperity and glory of our country."[5] Republican inspectors at the polls, to minimize the danger of this co-operation, presumed as slaves all black men who could not prove their freedom by sufficient evidence. The Federalists denounced this practice,[6] and organized among the Negroes a chapter of their partizan fraternity, the Washington Benevolent Society.[7] In 1811 a Republican legislature drew up a drastic law as to the suffrage of the blacks,[8] which passed in spite of the objections of the Federalist Council of Revision.[9]

[1] M. Van Rensselaer, Annals of the Van Rensselaers, Albany, 1888, p. 170.

[2] G. W. Schuyler, Colonial New York, N. Y., 1885, vol. ii, p. 497.

[3] Had the promising movements toward gradual emancipation by state action in the South in the early part of the nineteenth century succeeded, no doubt the same conditions would have followed there.

[4] From a broadside quoted in T. E. V. Smith, Political Parties and their Places of Meeting in New York City (pamphlet), N. Y., 1893, p. 10.

[5] Joseph Sydney, An Oration Commemorative of the Abolition of the Slave Trade in the United States (delivered before the Wilberforce Philanthropic Association), N. Y., 1809, a pamphlet in the N. Y. Historical Society Collection.

[6] *N. Y. Commercial Advertiser*, April 26, 1809. See resolutions, Federalist meeting, *ibid.*, May 22, also *N. Y. Spectator*, April 29, 1809. The practice was defended the following year by the Republican *N. Y. Advertiser*, April 26, 1810.

[7] *Analectic Magazine*, vol. xiii (1819), p. 287.

[8] J. D. Hammond, Political History, vol. i, p. 296.

[9] See objections stated in *N. Y. Spectator*, May 8, 1811. The N. Y. *Evening*

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The election of 1813 in the midst of "Mr. Madison's war" was closely contested; for some time the returns for members of assembly were in doubt.[1] The result was long remembered. Eight years afterward in the constitutional convention, General Root, speaking for the limitation on the franchise for men of color, recalled that "the votes of three hundred Negroes in the city of New York, in 1813, decided the election in favor of the Federal party, and also decided the political character of the legislature of this state."[2] Not the number of the Negroes who were qualified made them formidable, but the strategic strength of their location. At the next election, however, the Federalist majority was overturned, and it is not surprising to find soon presented before the reformed legislature a more severe measure to limit the political influence of the Negro in New York city. This not only provided for the elaborate registration of every freedman, but obliged him always to bring full copies of such registration to the officers of election.[3] Yet these laws were made effective with much difficulty; in spite of all precautions, "Negro ballots" had to be accepted. When Clinton brought to his standard the majority of Federalists

Post called it an "Act to prevent people of colour from voting at the next election;" see issues of April 16, 22, 1811. The official caption was "An Act to prevent frauds at election and slaves from voting;" Laws of New York, Revision of 1813, vol. ii, p. 253. See N. Y. Assembly Journal, 1811, pp. 251, 310 etc., and N. Y. Senate Journal, 1811, pp. 143, 163.

[1] Hammond, vol. i, p. 357.

[2] Carter, Stone and Gould, Reports of the Proceedings and Debates of the Convention of 1821 etc., Albany, 1821, p. 212. In 1813 there was a bill providing for a very strict superintendence of the colored voters, which passed the senate only. The six senators who voted against it were Federalists; N. Y. Senate Journal, 1813, p. 120.

[3] See N. Y. Assembly Journal, 1814-1815, pp. 469 *et seq.*, and N. Y. Senate Journal, 1814-1815, p. 326. At a large Negro meeting in New York city thanks were voted to the Federalist Judges Kent and Platt for their spirited opposition in the Council of Revision, the Republicans were berated, and continued support was promised to those "whose opinions appear more consonant to our own." *N. Y. Spectator*, April 19, 1815. This matter was made an issue in the next campaign and was the subject of the longest of the resolutions of a Federalist meeting; see *N. Y. Commercial Advertiser*, April 11, 1816.

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he gained the colored men as well.[1] Therefore in 1821 the Republicans were in no mood to trifle with this question.

The convention of 1821 has been called with somewhat pompous phraseology "a dominant emancipating agent in American democracy."[2] That one of its major purposes was to extend the suffrage to new classes was realized by friend and foe alike. "This is one of the crying evils for which we were sent here to provide a remedy," said Mr. Ross, of the committee to which this subject was referred.[3] Old qualifications of property, the remnant of the English practice of colonial days, were to be swept away, and it was known that the question of Negro suffrage would be an important subject of debate. The members of the convention were chosen on party grounds, and a large majority of them were Democrats.[4] The convention was conducted on party principles; the chairmen of all committees were appointed by the president, ex-Governor Tompkins, from his own supporters. These gentlemen differed sharply with the Federalist minority on the extension of the suffrage to poor white men, and to Negroes also. The committee in charge proposed, not to continue a twenty-pound qualification for the Negro, while giving the indigent white the vote, but actually to take away the privilege that the Negro already had.

[1] "Extracts from the minutes of the Electors Of the People of Colour of the 5th Ward at a Meeting to Express Congratulations to his Excellency. Resolve[d] that we the People of Colour present Our humble Congratulations to his Excellency's Veneration of Being Reelected By our utmost Endeavors as our Chief Commander and Governor of the State of New York;" N. Y., June 15, 1820, DeWitt Clinton MSS., Columbia University.

[2] F. N. Thorpe, Constitutional History of the American People, Chicago, 1901, vol. ii, p. 354. *Cf.* E. Olbrich, The Development of Sentiment on Negro Suffrage to 1860, University of Wisconsin, 1912, p. 38.

[3] Carter, Stone and Gould, Debates etc., pp. 180, 193. The report of the debates on Negro suffrage is quoted extensively in C. Z. Lincoln, Constitutional History of New York, vol. i, pp. 661–668, and in the admirable monograph of E. Olbrich, pp. 30–39. But neither of these authors has given his attention to the connection between the arguments and the partizan allegiance of the members. The same is true of Dr. H. L. Young's dissertation on The New York Constitutional Convention of 1821, which may be consulted in manuscript in the library of Yale University.

[4] J. D. Hammond, Political History, vol. ii, p. 2. Judge Hammond from this date uses the designation "Democratic" to describe the old Republican party.

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At the opening of the debate, Mr. Ross laid down the doctrine of the Democracy: "They are a peculiar people, incapable, in my judgment, of exercising that privilege with any sort of discretion, prudence, or independence." Probably the last-named quality gave him most concern, for later he complained that the black vote was a controlled vote. A petition in behalf of Negro voters "now on your table, in all probability had been instigated by gentlemen of a different colour who expect to control their votes."[1] For others the test of contribution to the state might be sufficient, but not so for the colored men.[2] There were reasons enough why the franchise should be denied the Negro altogether, said Colonel Young, a leading Democrat from Saratoga County; and if reasons did not prove sufficient, one could easily fall back on prejudice. The Negro should be entirely shut out.[3] Jacob Radcliff, who now represented the Tammany Society, "considered the privilege of exclusion to be derived, not from the distinction of color —but resorted to as a rule of designation between those who understand the worth of the privilege, and those who are degraded, dependent, and unfit to exercise it."[4] Here was a scholastic refinement that would have graced a medieval disputation. As to the Negro voter having by the exercise of the franchise for forty years and more acquired a *vested* right to such exercise, as was maintained by Abraham Van Vechten, a leader of the Albany Federalists, it was answered that the sovereign people in convention could do anything.[5]

[1] Debates, pp. 180, 181.

[2] The suffrage was extended by this constitution to all male residents of proper age who paid taxes (or were exempt by law), who did militia duty (or were exempt), or who worked at call upon the highways (or paid an equivalent), except Negroes, for whom, as we shall see, special provision was made.

[3] Debates, pp. 190–191. Colonel Young criticized the argument for suffrage from natural right when Dr. Clarke quoted the Declaration of Independence. It was a question of expediency. Democratic doctrine was beginning to be modified in statement.

[4] Debates, p. 190.

[5] *Ibid.*, p. 193; see Hammond, vol. ii, pp. 3 etc., on Van Vechten's importance in the party.

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Again and again the complaint was heard that the Negro lacked independence, that he was amenable to other influences than argument. The contention, significantly enough, came from one party only.[1] The Democrats had every reason to subscribe to the opinion that the Negroes, born in slavery, and accustomed to take orders, would now vote according to the dictates of their employers.[3] To extend to blacks the same provisions as were contemplated for whites would, as Mr. Radcliff well observed, be attended with most serious results. It would let loose two thousand five hundred Negro voters in the city of New York, and a small part of these might determine the result in such close state elections as, for example, that of 1801.[4] General Root declared himself an abolitionist as to slavery[5]—for now, as later, we find opinion upon slavery and upon the suffrage bearing small relation—but he was aware of the dangerous importance of the Negro vote. He said:

> At present the number of blacks who are voters is so small, that if they were scattered all over the state, there would not be much danger to be apprehended, but if we may judge of the future by the past, I should suppose that there was some cause for alarm, when a few hundred Negroes of the city of New York, following the train of those who ride in their coaches, and whose shoes and boots they had so often blacked, shall go to the polls of the election and change the political condition of the whole state. A change in the representation of that city may cause a change in your assembly, by giving a majority to a particular party, which would vary your council of appointment, who make the highest officers of your government. Thus would the whole state be controlled by a few hundred of this species of population in the city of New York.[6]

The Federalist members did not content themselves with silence. The committee had scarcely presented their report,

[1] One Federalist opposed his colleagues—Chief Justice Ambrose Spencer, who, however, classed the improvident mechanic with the Negro. With him it was not a matter of race; *ibid.*, p. 377.

[2] *Ibid.*, p. 195. [3] *Ibid.*, p. 185. [4] *Ibid.*, pp. 198, 199 (Livingston).

[5] D. S. Alexander, Political History of New York State, N. Y., 1906, vol. i, p. 229.

[6] Debates, pp. 185–186.

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in which there appeared no provision for any Negro vote, when Peter Augustus Jay, an able father's able son, arose to ask an explanation why, while extending the privilege of the franchise to some men, "they deny it to others who actually possess it." Though he abhorred slavery, he was not, he said, what was called an abolitionist; yet he would not stand by and hear it said that this denial was made "because all who were not white ought to be excluded from political rights, because such persons were incapable of exercising them discreetly, and because they were peculiarly liable to be influenced and corrupted."[1] Mr. Van Vechten had not understood that the convention was expected "except by some of the citizens of New York to disfranchise anybody." Why should the Negro voters be attacked? "Have they done anything to forfeit the right of suffrage? This has not been shown."[2] Dr. Clarke, a Federalist from Delaware County, desired to learn why Negro soldiers should not vote as well as whites; there had been nothing but applause for their service as state troops in the War of 1812. The fact that they were not liable to militia duty had made their volunteering in that crisis all the more occasion for respect and gratitude.[3] General Van Rensselaer thought any man of either race should vote, provided he had property and paid taxes.[4]

Mr. Jay moved that the word "white" be struck out of the committee's proposed amendment. After due debate the matter was referred to a select committee,[5] which finally proposed:

That no male citizen, other than white, shall be subject to taxation, or entitled to vote at any election, unless in addition to the qualifications of age and residence, last above mentioned, he shall be seised and possessed in his own right of a freehold estate of the value of two hundred and fifty dollars, over and above all debts and incumbrances charged thereon, and shall have been, within the next year

[1] Debates, p. 180 (Ross), and p. 183 (Jay).

[2] *Ibid.*, pp. 193, 195. [3] *Ibid.*, p. 187. [4] *Ibid.*, p. 182.

[5] *Cf.* Olbrich, *op. cit.*, p. 36. Ex-Governor Tompkins, who presided, contrary to parliamentary usage appointed as nine of the thirteen members men who had voted against the Jay motion; Debates, p. 289.

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preceding the election, assessed, and shall have actually paid a tax to the state or county.[1]

Judge Jonas Platt, who had been the Federalist candidate for governor in 1810, moved to strike out the words, "other than white." The qualification of two hundred and fifty dollars freehold he thought might be applied to white and black alike; if poor Negroes were to be excluded, then he would have the same exclusion for poor white men. He declared:

> I am not disposed, sir, to turn knight-errant in favour of the men of color. But the obligations of justice are eternal and indispensable. . . . The real object is, to exclude the oppressed and degraded sons of Africa, and, in my humble judgment, it would better comport with the dignity of this Convention to speak out, and to pronounce the sentence of perpetual degradation on Negroes and their posterity forever, than to establish a test, which we know they cannot comply with, and which we do not require of others.[2]

No man was more opposed to running after the *ignis fatuus* of universal suffrage than Chancellor Kent, but he could see no proper reason for discrimination against the Negro.[3] Rufus King believed that "universal suffrage was perilous to us and to the country" and yet took this same position.[4] But the majority were not moved by Federalist oratory. The qualification of two hundred and fifty dollars passed into the fundamental law to remain until 1870.[5]

The difference regarding Negro suffrage between the opposing parties was not fortuitous; their contemporaries noticed the alignment. The careful Hammond writes:

[1] Debates, p. 329.

[2] *Ibid.*, pp. 374, 375. Two hundred and fifty dollars had been the sum qualifying for the vote for governor, lieutenant-governor and senators. It was now extended in the Negro's case to that for member of assembly.

[3] *Ibid.*, pp. 190, 191, 221, 377.

[4] *Ibid.*, pp. 191, 287. King, though elected with the help of Democratic votes, was still a Federalist.

[5] The qualification was removed only with the passage of the Fifteenth Amendment to the Constitution of the United States. The New York Democrats protested bitterly against this amendment.

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It is somewhat curious that General Root, Colonel Young, Mr. Livingston, Mr. Briggs, &c., who were most anxious to abolish the property qualification and extend the right of suffrage to all white men, were equally zealous to exclude black citizens from the right to exercise the elective franchise; while those who most strenuously contended for retaining the freehold qualification as respected white citizens, were very solicitous to prevent an exclusion of the blacks from an equal participation with the whites. Of this last description of members, Chancellor Kent, Mr. Van Rensselaer, Mr. Jay, Mr. Van Vechten and Judge Platt were the most prominent.[1]

We have seen that the Negro had been a Federalist.[2] As soon as an ambitious freedman gained the prescribed amount of property—and we shall see that this group grew—he would now hesitate still less in choosing between the two parties. We are not to understand that the Negro was a lover of strong government in the abstract, or that he admired the British Constitution or suspected Jacobinical innovation; his Federalism was in his feeling. As long as the party lasted under the old designation, he voted faithfully for its candidates; and we have traced, it is hoped sufficiently, the considerations that commanded his allegiance.

The Federalist party as an organization was in 1821 already passing into history, but the feud between Van Buren's "Bucktails"[3] and all others was kept up. When in 1826 the few restrictions on white suffrage which had survived five years before were swept away, it was a Democratic legislature which retained the qualification for the blacks.[4] This fact was probably not lost upon the colored voter; and despite the hope and

[1] Political History, vol. ii, p. 21.

[2] "The Negroes, with scarcely an exception, adhered to the Federalists. Their number in the city of New York was very great, and parties in that city were so evenly divided, that it was often sufficient to hold the balance between them, at times, too, when the vote of New York, in the legislature, not unfrequently decided the majority of that body;" Life of Martin Van Buren, a campaign pamphlet, published in Philadelphia in 1844 (in N. Y. Public Library), p. 6.

[3] The bucktail was the badge of the Tammany Society.

[4] The six senators (out of twenty-eight) who voted for equal suffrage were all anti-Tammany men; N. Y. Senate Journal, 1825, p. 147. For names *cf.* Hammond, vol. i, pp. 235, 237; vol. ii, pp. 139, 175, 193; and Alexander, vol. i, p. 156.

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expectation of the convention of 1821, his tribe increased in thrift,[1] so that his political importance was not lost. In the decade after 1830, in three contests for governor, in New York city, always of such critical importance, the fifth ward—where the Negroes were most largely settled—was carried against Tammany, apparently by Negro influence.[2] The same result was brought about here in at least three municipal elections, and likewise in the eighth ward, next to the fifth in Negro population, in 1834, 1837 and 1838.[3] The sachems had little reason to look with complacency upon the slowly growing Negro influence. In Brooklyn, the fourth, ninth and seventh wards, where the Negroes were most numerous, yield corroborative evidence.[4] In Albany, a little later, it was probably Negroes in the first and tenth wards who swelled the Whig majorities.[5]

When the people of New York voted that a convention for the revision of the constitution should be held in 1846, no gift of prophecy was needed to foretell that Negro suffrage would again furnish a theme of bitter controversy. The movement to take away the privilege altogether was begun before the delegates were chosen. A pamphleteer[6] who declared himself "a steady supporter of the principles and regular nominations of the Democratic party" urged the complete exclusion of all men of color from the right to vote. "Some of

[1] See the testimony of W. E. Shannon, formerly of New York, in the Report of the Debates in the Convention of California etc., 1849, Washington, 1850, p. 143. Much was accomplished in New York city by the Phoenix Societies; see Minutes and Proceedings of the Third Annual Convention for the Improvement of Free People of Color etc. (pamphlet), N. Y., 1833, pp. 36–40; F. Bancroft, Life of Seward, vol. i, p. 139; C. C. Andrews, History of the New York African Free Schools etc., N. Y., 1830.

[2] E. Williams, New York Annual Register, 1835, p. 52; *ibid.*, 1840, p. 224; N. Y. *Evening Post*, Nov. 26, 1836; Census of N. Y. State, in O. C. Holley, New York State Register, p. 109.

[3] Williams, 1834, p. 279; *ibid.*, 1837, p. 348; *ibid.*, 1840, p. 224; Holley, *loc. cit.*

[4] *Cf.* N. Y. *Evening Post*, Nov. 4, 1836; Williams, 1836, p. 95; *ibid.*, 1840, p. 222; Holley, 1843, p. 82; *ibid.*, 1846, p. 107.

[5] *Cf.* J. Munsell, Annals of Albany, Albany, 1870, vol. ii, pp. 361–362; Holley, 1846, p. 107; *ibid.*, 1843, p. 69; *ibid.*, 1845, p. 69; *N. Y. Tribune*, Nov. 4, 1846.

[6] H. P. Hastings, An Essay on Constitutional Reform, N. Y., 1846, in N. Y. Public Library.

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our people, from false notions of benevolence, or political hypocrisy, deny the natural inferiority of the black race," but as for himself he would maintain that their political proscription was in no way inconsistent with good Democratic doctrine:

> In the country, where there are but few Negroes, the danger of encouraging them to remain in the State, invite others from adjacent States and fugitive slaves to join them, and interfere in our political affairs, through the aid of a fanatical party of whites, is not so apparent as in our great cities where they are already numerous.

This broad distinction founded on geography we shall later put to test. On the other hand, the Whigs, in a mass meeting in New York city, October 28, 1845, presided over by the venerable Federalist, Philip Hone,[1] resolved that one of the first reasons for holding a convention was that "the inestimable Right of Suffrage is not secured equally to all citizens, but is clogged as to a part with a proscriptive and anomalous Property Qualification."[2]

Horace Greeley, publishing an address from colored men who asked the return of equal suffrage, endorsed their claim that manhood alone must be the test for the elective franchise,[3] and later printed this demand at the head of seven reforms that must be struggled for.[4] He bewailed "the Colorphobia which prevails so extensively in the ranks of our modern 'Democracy'," [5] and declared that the "body of the People are divided into two great parties, one of which is generally favorable, and

[1] To see how important a part Hone played in carrying this measure through, consult report in N. Y. *Evening Post*, Oct. 29, 1845; yet Hone had no sympathy with abolitionism. See Diary of Philip Hone, N. Y., 1889, vol. i, p. 79. (The full manuscript is in the N. Y. Historical Society Collections.)

[2] *N. Y. Tribune*, October 30, 1845. It must be said that this was not the unanimous opinion of those attending. Col. Webb, of the *Courier and Enquirer*, who had written very gingerly about the Texas question and was anxious that the party in New York should commit itself to no principle distasteful to the southern Whigs, was able at a subsequent smaller meeting to have all such resolutions stricken out.

[3] *N. Y. Tribune* January 23, 1846. The address itself is interesting; apparently in the hope of proselyting among Democrats its authors recalled general statements of D. D. Tompkins and Silas Wright about slavery and the rights of man.

[4] *Ibid.*, March 23, 1846.

[5] *Ibid.*, Feb. 12.

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the other notoriously hostile to the extension of the Right of Suffrage to every peaceable, orderly citizen, without regard to the color of his skin or the amount of his property." He urged the Birneyites, the members of the small and struggling group of abolitionists, to name no candidates for the convention, but to vote for Whigs, who, however they might differ with these enthusiasts as to the proper way to deal with slavery, were one with them upon the poorest Negro's right to vote.[1] As to the candidates the colored voters would themselves prefer, he, of course, had little doubt. He knew they would recall that it was the Democrats of 1821 who had excluded them, when "every Federalist in the Convention strenuously opposed the proscription."[2] And the Negro voter seemed to understand. "The Democratic party of this City," wrote one of them, "with the loud profession of the largest liberty, is the first and the only one to announce its determination to go for the curtailment of Human Freedom."[3]

It must not be considered that this was but a passing crotchet of Greeley's. The other most important Whig editor in the state was Thurlow Weed, who attempted to lead no forlorn hopes. For universal suffrage in the abstract he had no approval;[4] that was one thing in which he would if necessary stand alone. He did not care to jeopardize the union of the party and of the nation[5] by stirring up trouble in the South, and he made no secret of his hatred for the fanatical zeal of northern abolitionists.[6] Indeed, in after years Greeley charged him with a "poor white" prejudice against the black.[7] Yet at the very outset of this contest he had written, "Above all, let

[1] *N. Y. Tribune*, Feb. 17. It seems that the inference as to a connection between these sentiments was unwarranted.

[2] *Ibid.*, March 23.

[3] *Ibid.*, April 28.

[4] Life of Thurlow Weed (Autobiography), Boston, 1884, pp. 89–90. For his later revision of opinion, see *ibid.* (Memoir), p. 561.

[5] *Cf.* W. E. Dodd, Expansion and Conflict, N. Y., 1915, p. 171.

[6] *Albany Evening Journal*, Nov. 30, 1860; also Autobiography, p. 98.

[7] Horace Greeley, Recollections of a Busy Life, N. Y., 1873, p. 313. This reference to Weed's humble origin was no less ungenerous than unfair. See Weed's Memoir, p. 297.

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that class of our fellow-citizens, whose intellectual capacities are measured under our present Constitution by *property*, be relieved from the stigma under which they rest, and be placed on the footing where they belong—that of men."[1] Seward, the other member of that famous firm, likewise favored equal suffrage.[2] And despite the opposition of a few, the majority of Whigs seem to have stood behind the trusted leaders.[3]

There was as little doubt as to the policy of the Democrats. The *Journal of Commerce*, the *Argus* and the *Evening Post* had no word to say for the extension of the franchise. Bryant, who in his vagarious days of Equal Rights had brought upon his own head round condemnation for countenancing abolition, who had pointed out with all Cassandra's certainty the danger which followed in the train of the "domestic institution," and had stood among the staunchest in support of Adams in his fight for freedom of petition, now wrote with care to establish the doctrine that civil freedom and the suffrage presented two quite different questions. The Negro as a voter was the Negro as a peril.[4] Bennett, who in spite of claims of independence was at heart a Tammany man, complained in the *Herald* of "the detestable cry of Negro suffrage raised as a rallying cry for the election of delegates to the Convention;"[5] the *Globe* expressed a similar sentiment;[6] and the *Morning News* attributed all the Whigs' zeal to an appetite for votes.[7] This view is

[1] *Albany Evening Journal*, Oct. 30, 1845.

[2] See his Reply to the Colored Citizens of Albany, Works, N. Y., 1853–1854, vol. iii, pp. 437–438.

[3] N. Y. *Evening Post*, Oct. 6, 1845. See Greeley's comment on the Webb faction, "so utterly out of place in our party;" *N. Y. Tribune*, April 1, 1846. After the election the Young Men's General County Committee of the Whigs tried to read Webb out of the party.

[4] Parke Godwin, A Biography of William Cullen Bryant, N. Y., 1883, vol. i, pp. 327–331, and N. Y. *Evening Post*, April 21, 1836.

[5] He "was a recognized member of the Tammany party;" Memoirs of James Gordon Bennett and his Times, N. Y., 1855, p. 80. He was not complimentary to the Negro, "on whom education, and every other means of moral enlightenment have been tried in vain;" *N. Y. Herald*, March 17, 1846.

[6] Quoted in *N. Y. Tribune*, Feb. 12, 1846.

[7] March 24, 1846. See Frederic Hudson, Journalism in the United States, pp. 576, 667.

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doubtless exaggerated; yet the hope of party gain certainly performed its part.

The election of the delegates to the convention of 1846, as a quarter of a century before, was made a party question, and again the Democrats were represented by the large majority.[1] In the course of time the matter of the franchise was presented and a long debate was begun.[2] There was no doubt as to how the parties stood. The committee report, presented by its chairman, ex-Governor Bouck, recommended suffrage for white men only;[3] if the convention should desire, it might offer unrestricted colored suffrage as a separate option. If this report were adopted by the delegates, the proposition of the black man's complete exclusion, as the majority of Democrats in 1821 had wished, would go before the people with the prestige of the approval of the convention. No provision was here made for the continuation of the existing limitation of two hundred and fifty dollars, but the minority report called for equal suffrage. Mr. Bruce, a Whig from Madison County, moved to strike out the word "white," and the contest was begun. J. Leslie Russell, of St. Lawrence, took up the challenge:

> For one, he knew . . . that nine-tenths of the people in St. Lawrence county—abolitionists and all—were opposed to the admission of the Negroes to the right of suffrage. . . . He agreed in this perfectly with his constituents. This was the only issue in St. Lawrence at the Convention election. He was interrogated on this subject, and informed them expressly that he should vote against suffrage to the Negro.[4]

[1] Hammond, *op. cit.*, vol. iii, p. 605.

[2] Croswell and Sutton, Debates and Proceedings in the New York State Convention etc., Albany, 1846, pp. 246, 775, 782 etc. See also C. Z. Lincoln, Constitutional History, vol. ii, pp. 118–123 and E. Olbrich, *op. cit.*, pp. 72–78.

[3] No. 51 in Documents of the Convention of the State of New York, 1846, vol. i.

[4] Debates, p. 777. Mr. Russell, like the majority of the voters of St. Lawrence County, was an ardent Democrat. He was in the complete confidence of his fellow-citizen of Canton, Governor Wright, who had taken a deep interest in his career; R. H. Gillett, Life and Times of Silas Wright, N. Y., 1874, vol. ii, p. 1727; J. D. Hammond, Life of Silas Wright, Syracuse, 1849, p. 730; and Russell to A. C. Flagg, Flagg MSS., N. Y. Public Library. We may infer that Wright's opinions were similar to Russell's.

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He was answered by Mr. Strong, a Whig member from Monroe, who declared himself no abolitionist, but who knew this question would never be finally settled until right should be done all classes of the citizens of the state.[1] Mr. Kirkland from Oneida wanted at least to save the Negro what he had.[2] But Mr. Kennedy, a Democrat from New York city, declared that a holding of real property or any other kind was no fit test for the franchise; in any change only character and manhood should be considered; but

> the females of mature age, of our own race, were entitled to a preference, when we were prepared to make such an extension. [A gentleman had] remarked that delicacy should prevent females from uniting in the exercise of political power, but what sort of delicacy was that which . . . would squander it upon those whom nature had marked as a distinct race; and who were merely an excrescence upon our society! . . . Nature revolted at the proposal.

He claimed that the freedmen in New York were more degraded than the like class in the South. He had statistics to prove Negroes far more vicious than whites.[3]

Federal Dana, Mr. Bruce's colleague, said if the Negro were but given decent opportunities in life like the suffrage, he would not be so vicious. Mr. Young, a Wyoming Whig, contended that colored people were as intelligent as immigrants from foreign countries and as much entitled to the elective franchise. He regretted that statistics of the good portion of those other groups had not been furnished also. Mr. Rhoades, of Onondaga, scouted a so-called democracy that would deprive men of rights simply on the ground of a difference in complexion. Mr. Waterbury, of Delaware, reverted to the case of women. "The wives and children of all our white citizens were protected in their rights and privileges by husbands and

[1] Debates, p. 777.

[2] *Ibid.*, p. 778. It may be said here that no Democrat spoke for the extension of the franchise, and no Whig against it, except Mr. Kirkland and Mr. Stow, who were content with a restricted suffrage, and Mr. Harrison, who stood with the Tammany men in the desire to shut out the Negro altogether.

[3] Debates, pp. 782–786, for this and the speeches in the next paragraph.

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brothers. Where do you find anyone to stand up for the colored man?—Not one." But Mr. Hunt, from Tammany Hall, would listen to no such talk. "His doctrine and that of his constituents, in relation to the right of suffrage, was briefly this: We want no masters and least of all no Negro masters, to reign over us."

It was Mr. Hunt who introduced a new note in the debate. In 1821 the franchise question had been settled without reference or citation beyond the plain facts of social prudence and the experience of this world. But a new day of religious enthusiasm had come since then, and the simple words of scripture were frequently taken as the unfailing guide of life.[1] In the view of most men, "common sense, reason and reflection pronounced a solemn amen to every doctrine taught in that fearful and precious book" and it was held "that all the truth to which reason ever assented had been first taught by revelation."[2]

Mr. Hunt appealed to Leviticus: "The Jews were forbidden to yoke animals of different kinds together; and if it were wrong to unite the cow and the ass in the same yoke, would it be right to unite the Caucasian and the Negro race in the same government?"[3] In some way equal suffrage was considered to imply social equality as well. Mr. Perkins, of St. Lawrence, said he should not enter the controversy further than to say that if there were any verity in scripture, mankind were at Babel divided into separate classes, "that it was the fiat of the Almighty that they should remain separate nations—that he put his mark on these creatures, that it might be known that it was a violation of the law of God to commingle our blood with them in marriage."—"Does the gentleman find that in the Bible?" asked Mr. Dana.—"Yes," was the reply; "not in those words, however." Mr. Waterbury wished to know,

[1] W. Walker, History of the Congregational Churches in the United States, N. Y., 1894, p. 320; R. E. Thompson, History of the Presbyterian Churches in the United States, N. Y., 1895, pp. 129–149.

[2] David Nelson, The Cause and Cure of Infidelity, N. Y., 1841, p. 351. This was one of the most popular and influential of the volumes issued by the American Tract Society.

[3] Debates, p. 786.

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"If they were thus separated at Babel, how came they to go through the ark with the rest?"[1] Pausing for a moment's comment on the limitations of the gentleman from Delaware in the field of sacred chronology, the debate went forward. Mr. Dana remembered nothing in the account of Babel that properly could be cited against the right of the colored man to vote. "And before he could be convinced of that, he must have chapter and verse." Mr. Harrison, of Richmond, offered specific reference to Ham and Canaan: "Cursed be Canaan; a servant of servants shall he be to his brethren."[2] Yet Mr. Dana recalled that Noah was at this time intoxicated, and that at any rate this had no bearing upon political rights. Mr. Perkins "laid it down as the economy of Providence that there should be separate races and grades of beings on earth." The great offense that had brought on the flood had been the commingling of races. He maintained his exegesis that the female progeny of Cain, lately damned with a black mark, had as partners to this indiscretion occasioned that calamity.[3] Mr. Simmons, of Essex, on the other hand, attributed the deluge to God's wrath at slavery. "My Bible says so," he exclaimed; but he was interrupted by a voice, "Yours is a Whig Bible."[4]

When the vote was taken on Mr. Bruce's proposition to strike out the word "white," there were thirty-seven for and sixty-three against. Among the thirty-seven that favored equal suffrage there were two Democrats; while among the sixty-three opposed there were eight Whigs.[5] But when a member of the latter party proposed that the property qualification for the Negro be lowered from two hundred and fifty to one hundred dollars, seven of these eight were willing to make this reduction.[6] The Democrats were in the majority, however, and the Whigs had to be satisfied with a separate submission to the people of the paragraph on equal suffrage.[7]

[1] Debates, p. 789. [2] *Ibid.*, p. 790. [3] *Ibid.*, p. 796. [4] *Ibia.*

[5] *Ibid.*, p. 788. The party affiliation of each member of the convention may be learned from the list published in the *N. Y. Tribune*, May 5, 1846.

[6] Debates, p. 790.

[7] The proposition was heavily defeated at the polls, especially in New York city.

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The Democrats had won a party victory. But since 1842 at least, there had been internal strife. Because of difference about canal expenditures or the Texas annexation, or from jealousies in office-holding, there had been developing a breach within the Democratic party of the state.[1] The Conservatives, or "Hunkers," abhorred the radical "Barnburners," and were themselves despised in turn. Yet faction made no break in this alignment in the convention. Bouck, the foremost Hunker, was no more against the Negro voter than was Michael Hoffman, the Barnburners' champion.[2] It was as straight a party question as one often finds. The charge that the country districts, ignorant of the true nature of the Negro, would unite in his behalf,[3] could not be sustained. Six counties were divided in their delegation—Albany, Greene, Wayne, Dutchess, Onondaga and Schoharie, and in every one the Whig members voted on the one side and the Democrats, if present, on the other. Acquaintance with the black man seemed to count for little. In St. Lawrence, where there were thirty-seven Negroes,[4] it had been "the only issue" and the delegates had been instructed to exclude them altogether. At the election in the autumn their position was maintained in that county by a vote of nearly two to one. Neighboring Franklin county gave equal suffrage a majority of seven hundred and thirty-two.[5] Essex county had forty Negroes; the adjacent Warren, with a population somewhat less, had thirty-five. Essex went for equality; Warren, by nearly the same majority, against.[6] Livingston, with about the same proportion of colored population as Steuben, next to it in the south, went in favor, and Steuben against.[7] The same was true

[1] J. S. Jenkins, Lives of the Governors of New York State, Auburn, 1851, p. 705; D. S. Alexander, *op. cit.*, vol. ii, pp. 56–76.

[2] J. S. Hammond, Political History, vol. iii, pp. 314, 387. In the partial list published in the *N. Y. Herald*, May 1, 1846, the Hunkers and Barnburners among the Democrats are differentiated. No relation to the vote on suffrage is observable.

[3] H. P. Hastings, *loc. cit.*

[4] Census of the State of New York, 1845, in O. L. Holley, New York State Register, 1846, p. 115.

[5] Table in *N. Y. Tribune*, Nov. 19, 1846.

[6] Holley, *op. cit.*, pp. 104, 119.

[7] *Ibid.*, pp. 108, 117.

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of Oneida and Herkimer, Cortland and Tioga, and other pairs of counties in the different sections of the state. Yet when one looks at the political complexion of these counties the inference is plain. Whig counties followed the direction of their leaders, and Democratic counties did the same. When Washington gave its vote in favor, Greeley wrote, "This Washington is called a *Federal* county, while the party which has polled ninety-nine hundredths of its vote *against* Equal Rights vaunts itself *Democratic*." [1]

Nor did abolitionism play a considerable part in the opinion on Negro suffrage. St. Lawrence abolitionists, if Mr. Russell is to be credited, were emphatically against all concession in the franchise. Men who did not follow Birney, like Mr. Strong and Dr. Backus,[2] were in favor of equality. It has been said that there was a connection between equal-suffrage sentiment and that which produced the Free-Soil party in 1848.[3] Yet in the convention no man was more steadily opposed to Negro suffrage than Samuel J. Tilden,[4] who became a pillar of that party; [5] and in the test of the ballot box such an hypothesis fails utterly. In 1848 seven counties voted for Van Buren, but only one of these had desired equal suffrage, and the county which by far surpassed all others in affection for Free Soil was none other than St. Lawrence.[6] The ward in New York city most favorable to equal suffrage was the fifteenth, always Whig,[7] which in 1844 had given Birney but twelve votes out of three thousand, and which in 1848 gave Van Buren a lower fraction of its votes than almost any other ward.[8] The sixth, which

[1] *N. Y. Tribune*, Nov. 14, 1847.

[2] Thurlow Weed, Autobiography, p. 98.

[3] E. Olbrich, Negro Suffrage before 1860 etc., p. 77.

[4] At least as indicated by his votes; Debates, pp. 788, 790, 791.

[5] John Bigelow, The Life of Samuel J. Tilden, N. Y., 1908, vol. 1, p. 119. Tilden wrote much of the address called "The Corner Stone of the Free Soil Party."

[6] See returns of election of 1846 in *N. Y. Tribune*, Nov. 14, 1846, and those of 1848 in Whig Almanac, N. Y., 1849, p. 54.

[7] Table in N. Y. *Evening Post*, Nov. 7, 1846, and election tables in E. Williams, New-York Annual Register, 1832–1840.

[8] Whig Almanac, *loc. cit.*

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gave the largest vote against the Negro, was the very citadel of Tammany. Horace Greeley, long afterward at a public meeting, recalled that election: "Twenty-five years ago, I stood at the poll of the nineteenth ward of this city all one rainy, chilly November day, peddling ballots for Equal Suffrage. I got many Whigs to take them, but not one Democrat."[1] In this recollection he no doubt was right. It was a party matter in which personalities or the fortunes of slavery in southern states or in the territories had but little bearing.

The traditional alliance between the well-to-do and the Negroes was maintained. This of itself would pique the fear of Tammany and sharpen its attack, but this was not all. The Democratic party in the cities was the party of the little man, the day worker and the mill-hand. The laborers of the forties certainly prized the luxury of feeling themselves better than the Negro; on his subordination hung their pride. And then there was the economic danger of too much encouragement. In Tammany Hall it had been resolved that suffrage for the Negro was "fraught with incalculable evil and mischief, both in a social and political point of view,"[2] but this organization had reasons, based on work and wages, to fear the Negro's rise. It had likewise laid down the doctrine "that the inevitale result of the success of abolitionism would be to create a pinching competition between the labor of the Negro and that of the white man. Thus the aspiration of the blacks for suffrage met with the "steady and determined opposition of Tammany Hall."[3] Reason was supported by race prejudice in the heart of the mechanic. It was in the sixth and fourteenth wards of New York city that the anti-Negro vote was strongest, and here were found the largest number of immigrant citizens.[4]

[1] In a speech at a meeting of welcome after his southern journey of 1871; Mr. Greeley's Record on the Question of Amnesty and Reconstruction (pamphlet), N. Y., 1872, p. 21. As to exactly where he stood, Mr. Greeley's memory must have been at fault, as there was in 1846 no nineteenth ward.

[2] Report of meeting, N. Y. *Evening Post*, Oct. 31, 1846.

[3] *Ibid.*, Oct. 31, 1845.

[4] Greeley claimed this question brought out extra thousands of Tammany votes; *N. Y. Tribune*, Nov. 7, 1846.

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The connection of these facts was plain, and it was accepted as a large factor in the explanation of the outcome.[1]

Though the average Negro did not think of the connection, there was doubtless, now and then, a leader to whom these things were clear. Allied by long tradition to the Federalist Whig party, he accepted its direction with docility. As to the charge that the Whigs were low-hearted opportunists on the slavery issue he made no extensive inquiry. In feeling more concern about his own improvement than about the labor system beyond the Mississippi, he presented no exception to the custom of mankind. The Wilmot Proviso was interesting in its way, but Texas was a long way off. Since the leaders of the Free-Soil party had been Democrats, he felt no strong enthusiasm to march behind their banner. In the abolitionists he no doubt felt an interest, but there was little use in casting votes for them.[2] When the Whigs made their transition to the Republican party he of course followed, but he had no hunger for third parties. "For the last five or six years before I left New York," testified a witness in far-away Iowa, "their votes were deposited sometimes for the third-party candidate, but most generally for the old Whig party."[3] They were Whigs because their fathers had been Federalists. If there had never been a Negro south of the Potomac, still the Negro in New York would never have voted the Democratic ticket.

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[1] *N. Y. Tribune*, Nov. 8. Yet Greeley was a steady opponent of nativism.

[2] Compare Birney's total vote in New York city in 1844 with the Negroes' voting strength; Constitutional Debates, 1846, p. 790, and Holley, *op. cit.*, 1845, p. 85.

[3] Mr. Clarke in the Debates of the Constitutional Convention of the State of Iowa, 1857, Davenport, 1857, vol. ii, p. 671. Mr. Clarke had left New York in 1831; *ibid.*, vol. i, p. 4 (biographical table).

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THE DELEGATION OF LEGISLATIVE POWER TO CITIES

I. THE REFERENCE OF LAWS TO THE VOTERS

I. Introduction

HOME rule for cities is, by constitutional grant, an accomplished fact in one-quarter of the states of the Union. This method of meeting the fairly reasonable demand of cities for broader powers of self-government by constitutional provision is somewhat heroic. Moreover, it has, both in law and in practice, produced highly complicated and often unsatisfactory results. As the result of many forces, the attitude of state legislatures toward cities has in recent years undergone a marked change for the better. If the legislature could itself make a grant of home-rule powers that would satisfy all reasonable demands, this insistent problem of our politics would be greatly simplified; for the legislature would, of course, retain its power to alter the general grant in the interest of preventing abuses, of perfecting machinery, of unraveling unforeseen complications, and of readjusting from time to time relationships between the cities on the one hand and the state government on the other—relationships which in the light of overlapping activities and of changes in the method of solving governmental problems cannot and should not remain static. If the legislative inclination be conceded, is there any constitutional reason why such a grant may not be made by statute? The answer to this question calls for a statement of the practical problem and an examination of the legal principles involved.

The practical problem arises out of the historical development of legislative practices in the matter of enacting municipal charters. In connection with these practices only two facts of present-day significance need to be noted. In the first place, since powers are commonly conferred not upon the city as such but upon designated corporate authorities, it is impossible

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to consider the powers of a city as something easily separated from the organization of its government. In the second place, there is in the United States no standard whatever by which the appropriate content of a municipal charter may be measured, just as there is no accepted standard for the content of a state constitution. Since the early days of our history there has been a somewhat natural expansion of our conception of the proper scope of our fundamental laws, whether constitutions of states or charters of cities.[1] In spite of the extremes into which we have drifted in the matter of lengthy constitutions and charters, and in spite of the impossibility of defining that which is fundamental and that which is not, it is well-nigh certain that we shall never return to the brief and simple instruments of earlier days.

If it be conceded, then, that the modern charter of every sizable city usually is, probably ought to be, and in any case will be, a document of considerable scope, in which powers are granted and limitations imposed with definite reference to the organic structure of the government established, it seems manifest that the proposal to confer upon cities large powers of home rule involves of necessity a delegation of some portion or the whole of the charter-making power. There can be no genuine grant of self-government while the legislature itself continues to elaborate the innumerable details of city charters.

But can the legislature, without specific authorization by the constitution, delegate any portion or the whole of the charter-making power? Answer to this must be sought in an examination of the constitutional rule that the legislative power that is vested in the legislature may not be delegated.

The cases involving the delegation of legislative power to executive and judicial officers are concerned with the application of the principle of the separation of powers. As such they may very properly be excluded from consideration. It should be plainly stated at the outset, however, that even when attention is restricted to the numerous cases involving the dele-

[1] This has doubtless been due quite as much to the very considerable expansion of governmental functions as to the popular distrust of governmental authorities usually put forward in explanation of this development.

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gation of legislative power to the electors and to the corporate authorities of cities, the difficulties of classification and analysis, owing to the many ramifications of argument, are almost insuperable. But the practical importance of this subject and the unsatisfactory status of the law make it imperative that the "mazes of adjudication" should be trod, with the end in view less of setting forth the law as it is than of extracting the most substantial arguments from the cases and patching together a consistent and harmonious legal theory. For reasons that will appear later it seems appropriate, if not indispensable, that attention should first be directed to the cases involving the validity of laws made subject to the approval of the voters.

II. The Distinction Between the Reference of Laws to State-wide and to Local Electorates

Following the lead of Judge Cooley,[1] later commentators upon the subject of the reference of statutes to the voters have declared that while the weight of authority does not sustain the competence of the legislature to submit a law of state-wide application to the electorate of the entire state, it does sustain the competence of the legislature to submit a law, whether of special character or of the so-called "local-option" variety, for the approval or rejection of one or more local electorates.[2] Judge Cooley's thesis is based upon the well-known fact that by "immemorial practice" local legislative powers have been vested in the corporate authorities of municipalities, and that this has never been regarded as "trenching upon the maxim that legislative power must not be delegated." From this and from the fact that, although not compulsory upon the legislature, it is "eminently proper" that the voice of the locality should be heard on the question of their incorporation and various other matters affecting them, Judge Cooley concludes that local referenda may be and usually have been sustained. On the other hand, state-wide referenda cannot be sustained

[1] Constitutional Limitations (7th ed.), pp. 163–174.

[2] Oberholtzer, The Referendum, Initiative and Recall in America, chs. viii and xiii; Cleveland, Organized Democracy, ch. xxii.

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upon the ground of custom and are not by the weight of authority upheld upon any other ground, although Judge Cooley recognizes the force of the arguments that have been advanced to support such referenda in a few jurisdictions.

So far as the differentiation here made is rested upon a mere question of "eminent propriety," its weakness seems obvious. It may be just as "proper" to hear the voice of the entire state on a law of general application as the voice of a locality on a law of special application. However that may be, it is submitted that by no means all of the cases do in fact follow Judge Cooley's line of reasoning. In the first place, there appear to be only eight jurisdictions in which the courts have been called upon to consider the validity of laws made subject to a state-wide referendum.[1] In New York,[2] Iowa,[3] New Hampshire[4] and Massachusetts[5] such laws have been held invalid. In Vermont,[6] Michigan[7] (by an evenly divided court), Wisconsin,[8] and New Jersey[9] such laws have been sustained.[10] It would seem,

[1] A prohibitory liquor law of 1853 which was submitted to the voters of the territory of Minnesota appears to have been held invalid; but there is no record of the case. See reference in Roos *v.* State *ex rel.* Swenson, 6 Minn. 428 (1861) at p. 434.

[2] Barto *v.* Himrod, 8 N. Y. 483 (1853).

[3] Santo *v.* State, 2 Ia. 165 (1855); reaffirmed in State *v.* Beneke, 9 Ia. 203 (1859).

[4] States *v.* Hayes, 61 N. H. 264 (1881).

[5] Opinions of Justices, 160 Mass. 586 (1894).

[6] State *v.* Parker, 26 Vt. 357 (1854). In this case reliance was placed also on the fact that the referendal vote could operate only to fix the time when the statute should take effect, the legislature having evidently adopted this device to avoid the constitutional issue. In State *v.* Scampini, 77 Vt. 92 (1904), which reaffirmed the Parker case, a similar statute was involved, and perhaps even greater emphasis was laid upon the fact that the statute would go into effect in either 1904 or 1906 no matter what the contingency of the popular vote might be.

[7] People *v.* Collins, 3 Mich. 343 (1854). In this case the vote of the electors determined whether the statute should go into effect in 1853 or 1871.

[8] Smith *v.* City of Janesville, 26 Wis. 291 (1870).

[9] Hudspeth *v.* Swayze, 89 Atl. 780 (1914).

[10] In Rhode Island the court was able to avoid a direct determination of the issue since the statute in question was actually in force, and the referendum, being on the repeal of the law and being against such repeal, left the statute unaffected. State *v.* Copeland, 3 R. I. 33 (1854). The submission to the voters of Maine of a state-wide prohibitory liquor law enacted in 1858 was never contested.

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therefore, that the weight of authority is not overwhelmingly either in support of, or in opposition to, state-wide referenda.

In the second place, while it is true that local referenda have been sustained in every one of the four states that have denied the validity of state-wide referenda, in only two of these—New Hampshire [1] and Massachusetts [2]—has the distinction between the two been rested clearly upon the grounds advanced by Judge Cooley. In Iowa a so-called "local-option" law was declared void on precisely the same ground on which a state-wide referendal statute was defeated; [3] and this decision has never been expressly overruled, although in a much later case a "local-option" statute of a somewhat different character was distinguished upon the uncertain ground that under the law in question the voters "only determine whether a certain thing shall be done under the law, and not whether the law shall take effect." [4] In this later case some reliance was placed upon the fact that the legislature may delegate legislative power to municipal corporations; but the best that can be said is that in Iowa the law upon this subject is in considerable uncertainty. In New York local referenda have been upheld in a large number of cases.[5] But since the court has admitted that the ground upon which the distinction between state-wide and local referenda is based is "shadowy and difficult to find," although "it

[1] State *v.* Noyes, 30 N. H. 279 (1855), sustaining a local referendum, was expressly affirmed and distinguished in State *v.* Hayes, *supra*, note 4, page 279.

[2] Local referenda were sustained in Stone *v.* Charlestown, 114 Mass. 214 (1873), and Commonwealth *v.* Bennet, 108 Mass. 27 (1871). These cases were affirmed and distinguished in Opinions of the Justices, *supra* note 5, page 279.

[3] State *v.* Geebrick 5 Ia. 491 (1857); reaffirmed in State *v.* Weir, 33 Ia. 134 (1871).

[4] State *v.* Forkner, 94 Ia. 1 (1895). See also Dalby *v.* Wolf, 14 Ia. 228 (1862) and Taylor *v.* McFadden, 84 Ia. 262 (1892).

[5] Bank of Rome *v.* Village of Rome, 18 N. Y. 38 (1858); Starin *v.* Town of Genoa, and Gould *v.* Town of Sterling, 23 N. Y. 439, 455 (1861); Grant *v.* Courter, 24 Barb. 232 (1857); Clarke *v.* City of Rochester, 24 Barb. 446 (1857); Corning *v.* Greene, 23 Barb. 33 (1856); Bank of Chenango *v.* Brown, 26 N. Y. 467 (1863); Clarke *v.* Rochester, 28 N. Y. 605 (1864); Gloversville *v.* Howell, 70 N. Y. 287 (1877); People *ex rel.* Unger *v.* Kennedy, 207 N. Y. 533 (1913).

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must be pursued and applied to the best of our ability,"[1] it seems unnecessary to attempt to outline the reasoning of the court. It was certainly not the same as that advanced by Judge Cooley.

Of the four jurisdictions in which state-wide referenda have been upheld, it may be said that the Wisconsin and New Jersey courts have sustained state-wide and local referenda upon practically the same grounds, to wit, that a vote of the electors was an entirely proper future contingency upon which a law might be made to depend for its effectuation.[2] In Vermont the argument of the court in support of the two kinds of referenda was much the same, although in the case involving a "local-option" law mention was made of the fact that the power of determining whether liquor licenses should be granted might have been vested in the corporate authorities of the several towns and therefore certainly could be vested in the local electors.[3] In Michigan a local referendum was upheld in 1906 without reference to the early case in which a state-wide referendum had been sustained by an evenly divided court, and Judge Cooley's argument in support of the validity of local referenda was quoted with approval.[4] The truth of the matter seems to be that in the states in which both classes of referenda have been contested, the arguments of the courts have been so far from uniform that it is impossible to state categorically the ground upon which the distinction in question has been laid.

In the third place, it is to be noted that in a considerable majority of jurisdictions contests have arisen only in respect to

[1] Bank of Chenango *v.* Brown, *supra*.

[2] Smith *v.* Janesville, *supra*, was upheld upon the authority of State *ex rel.* Attorney General *v.* O'Neill, 24 Wis. 149 (1869), which sustained a local referendum. In Hudspeth *v.* Swayze, *supra*, the New Jersey court declared that to sustain a state-wide referendum was "but another step," since referenda to the voters of towns and counties had already been upheld in such cases as Paterson *v.* The Society for Establishing Useful Manufactures, 4 Zab. (24 N. J. L.) 385 (1854); Paul *v.* Gloucester County, 50 N. J. L. 585 (1888); *In re* Cleveland, 51 N. J. L. 319 (1889); and Attorney General *ex rel.* Booth *v.* McGuinness, 78 N. J. L. 346 (1910).

[3] Bancroft *v.* Dumas, 21 Vt. 456 (1849).

[4] Attorney General *ex rel.* Battishill *v.* Township Board of Springwells, 143 Michigan 523 (1906).

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referendal statutes that have involved the submission to local electorates of special or "local-option" laws. In some instances the distinction referred to has been cited with approval.[1] In other cases some, if not sole, support has been drawn from the argument that "immemorial custom" sanctions the delegation of local legislative power to municipal corporations and that it is of no importance whether the delegation is made to the corporate authorities or to the voters.[2] In many other cases, however, the arguments advanced were apparently sufficiently comprehensive to have included a state-wide as well as a local referendum.[3] In a few jurisdictions it is practically impossible to describe the grounds upon which decisions have been reached.[4]

III. Arguments in support of referenda to state-wide electorates

In the entire history of American judicial law there is probably no numerous group of cases upon a single subject in which the principles involved have been expounded with less lucidity and satisfactory settlement than those involving a reference of statutes to the voters. It is eloquent of the chaos of legal principles that where on occasion this or that court has endeavored to assemble and analyze a large number of opinions in point, the result has almost invariably been embarrassment and impediment rather than enlightenment and assistance. It is impossible

[1] Alcorn *v.* Hamer, 38 Miss. 652 (1860); Barnes *v.* Board of Supervisors, 51 Miss. 305 (1875); Schulherr *v.* Bordeaux, 64 Miss. 59 (1886).

[2] State *v.* Wilcox, 42 Conn. 364 (1875); but see City of Bridgeport *v.* Housatonic Railroad Company, 15 Conn. 475 (1843); State *ex rel.* Sandford *v.* Court of Common Pleas, 36 N. J. L. 72 (1872).

[3] Slack *v.* Maysville & Lexington Rd. Co., 13 B. Monroe (Ky.) 1 (1852), in which, however, the doctrine of non-delegation was not clearly under consideration; Commonwealth *v.* Weller, 14 Bush (Ky.) 218 (1878); Burgess *v.* Pue, 2 Gill (Md.) 11 (1844); Hammond *v.* Haines, 25 Md. 541 (1866); Fell *v.* State, 42 Md. 71 (1874); Gordon *v.* State, 46 Oh. St. 607 (1889); Cincinnati etc. Railroad Co. *v.* Commissioners of Clinton County, 1 Oh. St. 77 (1852); Goddin *v.* Crump, 8 Leigh (Va.) 120 (1837); Bull *v.* Read, 13 Gratt. (Va.) 78 (1855).

[4] State *v.* Field, 17 Mo. 529 (1853); State *v.* Binder, 38 Mo. 450 (1866), which does not discuss the doctrine of non-delegation; City and County of St. Louis *v.* Alexander, 23 Mo. 483 (1856); State *ex rel.* Dome *v.* Wilcox, 45 Mo. 458 (1870); Lammert *v.* Lidwell, 62 Mo. 188 (1876); State *ex rel.* Maggard *v.* Pond, 93 Mo. 606 (1887).

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to follow with conviction many of the points that have been made. What, for example, is the distinction between a law which "shall take effect" upon a vote of the electors, and one which is "complete and final" when it passes from the legislature but which cannot in fact have any practical operation until the electors have decided to "take advantage of the privileges extended," or to vote in favor of an expenditure without which the law would be as nugatory as if not enacted? What difference is there in logic between a law which the voters accept or reject and one in respect to which they determine merely the time of effectuation—whether it shall be immediate or postponed to a distant day, affording ample time for its repeal by the legislature? How can it be said that "it is the law that makes the vote and not the vote that makes the law," simply because the provision for the referendum is incorporated into the law itself—for is it not evident that the public policy declared is the essence of the law, the referendal provision being a separable thing, a necessary incident to its effectuation, but not the law itself? Can any distinction be made between a vote which determines whether a law is "expedient" or not and one which answers only the "prudential question" whether the law shall be accepted or not? Is it true that some of the acts of legislatures are acts of "sovereignty" while others are acts of "legislation"? Is there any difference in fact between voting for or against a law and voting for or against the "execution" of the law?

With these and other metaphysical distinctions the opinions in the cases upon this subject abound. One proposition quite commonly discussed is whether a vote of the electors upon a law is assimilable to other future contingencies upon which the actual enforcement of laws may properly be made to depend. It seems unnecessary here to examine this proposition at length. There is certainly much force in the contention that a contingency which involves the taking of the judgment, as to the expediency of a law, of some authority extraneous to the legislature itself differs from a contingency arising out of a mere state of facts that does not involve the taking of any such judgment. It would probably have conduced to clearness of

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reasoning if the courts had frankly admitted that the voters do in fact participate in the making of a law and therefore exercise legislative power, when by their direct action they determine that such law shall or shall not be enforced. If this be admitted, the proposition, so far at least as state-wide referenda are concerned, is reduced to the question of determining whether the constitutional clauses vesting legislative power in the state legislature should be construed not only as a grant of power and a possible prohibition against any violation of the rule of separation but also as a prohibition against every kind of delegation.

In the relation between the legislature and the state electorate there is obviously a considerable element of the relation between agent and principal. Except where an agent has for some understandable reason assumed an irrevocable responsibility, it has never been heard that he may not refer this or that matter to, and take instructions from, his principal. Can it be said that the clauses investing legislative power create in the legislature, the mere agent of the voters, an unreturnable responsibility over against them? Certainly not by express declaration, and certainly not by necessary implication. The question goes to a matter of intention. It is highly improbable that those who framed and adopted (where a referendum was had) our early constitutions had any such positive intention as that upon which the rule of non-delegation of legislative power to the voters is premised. And it is a significant fact that, in spite of the uncertainty of the law upon this subject through more than half a century, no constitutional provision has yet contained a specific denial of the legislative competence to refer laws to the voters.[1] It would seem, therefore, that a strong argument in support of the right of the legislature to refer a law to the electors of the state can be drawn from the absence of any expressed or necessarily implied prohibition, coupled with the existence of a manifest agency relationship.[2]

[1] Provisions authorizing or requiring referenda on specific matters have been incorporated into many constitutions.

[2] This was apparently one of the grounds upon which the case of State *v.* Parker, 26 Vt. 357 (1854), was decided.

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IV. Arguments in support of referenda to local electorates.

The fact that the legislature is an agent of the voters of the state is of little importance in considering the competence of the legislature to refer a statute to the vote of a local electorate; for it is obvious that the legislature cannot be regarded as the agent of the voters of a particular locality. Laws of local application, whether of the "local-option" or of the special variety, are in every respect laws enacted and promulgated by, though not for, the entire state. The authority of the legislature to submit them for the approval or rejection of local electorates must, therefore, be rested upon grounds other than those premised upon a relationship of principal and agent. A local electorate is only a part—it may be a negligible part—of the legislature's principal.

In considering the competence of the legislature to submit laws to local electorates, a distinction should be drawn upon the basis of subject-matter. In respect to certain subjects, for example, the argument of delegation by "immemorial custom" has considerable weight. In respect to other subjects this argument is not so forceful. There is no doubt that the usual grant to cities of power to enact by-laws or ordinances is a grant of a portion of the legislative power of the state, this being more especially obvious when it is considered that municipal ordinances and state laws frequently deal with the same subjects. There is no doubt also that such a grant of power is of ancient origin, far antedating the vesting of legislative power by our state constitutions, and that a city deprived of this time-exercised power of local legislation would be very nearly inconceivable as an operating unit of government.[1] But what has been the character of the legislative power thus delegated? It has been chiefly the power to enact police laws, financial laws, laws relating to the uses of the streets and other public places, and

[1] Under our system of jurisprudence, with its deference for the fundamental law as it is written, it might indeed be proper to question the founding of an important rule of constitutional law upon mere custom. More especially would this be appropriate since the custom here under consideration has been universally held to prevail against a provision of the constitution (the clause investing legislative power) which has in certain applications been construed with scrupulous literalness.

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ordinances that may be generically, though somewhat indefinitely, described as administrative. If, therefore, it be conceded that the legislature, by reason of custom, is competent to delegate powers of this kind to the corporate authorities of cities, it would follow as a matter of consistent logic that such powers could equally well be delegated directly to local electors; for since under our generally prevailing system of local selection, the corporate authorities of a city are certainly the agents of the local voters rather than of the state as such,[1] the legislature might assuredly delegate to the principal the powers it could confer upon the agent of that principal.[2] Upon such a theory the right of the legislature to submit to the local voters police laws, such as those prohibiting or regulating the sale of intoxicating liquors or the running at large of cattle, could be readily sustained; and many of the referendal statutes which have been contested before the courts have been of this character. So also, upon like theory, could the reference of a proposed bond issue, or tax levy, or franchise grant be sustained; for these are subjects in respect to which power may be and commonly is delegated to the corporate authorities of cities.

V. The reference of charters and analogous laws to local electorates

It would seem, however, that laws providing for the initial incorporation of a community, or enacting a new charter or a charter amendment, or even those dealing with the somewhat analogous subject of altering municipal boundaries, are in a wholly different category. The exercise of legislative power by the local voters in accepting or rejecting laws of this char-

[1] From the functional point of view certain local officers are commonly regarded by the courts as agents of the state; and of course every corporate authority of a city is a state agent in the sense that the authority of his office is derived from the state. His personal authority is, on the other hand, derived from the locality and his responsibility is to the locality. In this sense he is strictly an agent of the local electors. It would perhaps be accurate to say that the corporation as such is the agent of the state for the performance of certain, if not all, functions, but that it performs these functions through the medium of officers who are its own agents.

[2] In the New England town, local legislative power has from the beginning been exercised directly by the electors.

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acter cannot be supported upon the theory that such legislative power is customarily granted to the corporate authorities of cities.[1] As bearing upon the subject of the competence of the legislature to delegate home-rule powers to cities, it is of especial interest, therefore, to examine with particular care the opinions of the courts in the cases involving referenda of this kind; for it is manifest that the right to accept or reject a charter or analogous law is at least a partial exercise of home-rule powers.

In three states—Massachusetts,[2] Pennsylvania[3] and South Carolina[4]—there are constitutional provisions requiring a local referendum on the subject of the initial incorporation of a city; but since, in Massachusetts and Pennsylvania, cities can be created only out of incorporated towns or boroughs, such referenda are in reality on the question of a change in the form of corporate organization rather than on the question of first-instance incorporation.[5] There are now thirty-two states in which special

[1] The power to extend boundaries has sometimes been granted to corporate authorities.

[2] Art. iv of Amendments, adopted in 1821. This amendment has been construed to prohibit a *general* law for the incorporation of cities, and not to require a referendum on a charter or charter amendment enacted *after* a city has once been incorporated as such. Larcom *v.* Olin, 160 Mass. 102 (1893); Prince *v.* Crocker, 166 Mass. 347 (1896); Cole *v.* Tucker, 164 Mass. 486 (1895); Graham *v.* Roberts, 200 Mass. 152 (1908); Barnes *v.* Mayor of Chicopee, 213 Mass. 1 (1912). It has been construed, further, not to prevent the annexation of a town to a city without a referendum—Chandler *v.* Boston, 112 Mass. 200 (1873)—and not to prevent the enactment of a *general* charter law adoptable by a city which has been previously incorporated as such. Cunningham *v.* Rockwood, 111 N. E. 409 (1916).

[3] Const. of 1873, art. xv, sec. 1. Since there is also a prohibition on special legislation for the incorporation of cities (art. iii, sec. 7), a town or borough in Pennsylvania can be incorporated as a city only under a general law containing a referendal provision.

[4] Const. of 1895, art. viii, sec. 2. There is also a requirement of general legislation for cities.

[5] Under the Massachusetts provision it is probable that the legislature could submit to the inhabitants of a town the simple question whether they would consent to become incorporated as a city without reference to the charter law that might be thereafter enacted. The universal practice, however, has been to take the local vote on the adoption or rejection of a proposed charter. In Pennsylvania and South Carolina the requirement of general legislation for cities coupled with the requirement of a referendum would seem to necessitate, in effect if not in form, a vote upon the specific type of government prescribed by a previously enacted law.

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legislation for cities is prohibited by constitutional provision.[1] In a few of these the constitution expressly requires that the general laws for the government of cities shall be subject to local referenda. Even in the absence of such a requirement it is obvious that where the legislature is restricted to the enactment of general laws for cities, the power of specific initial incorporation must of necessity be vested in some authority other than the legislature itself; and in most of the states the procedure for such incorporation has included, among other steps, the taking of a local vote. While in some states the general laws for the government of cities previously incorporated under special charters have been mandatory, in other states they have, without constitutional requirement, been made subject to acceptance by local electorates.

Wholly apart from these constitutional provisions which have resulted in the reference of charters to the electors of cities, there have been numerous instances throughout our entire history in which legislatures have submitted municipal charters and analogous laws to the electors concerned, although the legislative practice in this regard has not been consistent and uniform in any state. "It is well established," says Judge Dillon, "that a provision in a municipal charter that it shall not take effect unless assented to or accepted by a majority of the inhabitants, is not unconstitutional."[2] So much must be readily conceded; for the rule has been pertinently applied in a number of cases against adverse contention, has been referred to with approval in numerous dicta, has been tacitly accepted in many cases in which no contention to the contrary has been pointedly raised, and has lived by default in countless instances of charter referenda that have not been contested before the courts. In support of this rule Judge Dillon simply states that such a reference to the local voters is "in no sense a delegation of legislative

[1] McBain, The Law and the Practice of Municipal Home Rule, p. 95. In West Virginia, Texas and Louisiana this prohibition applies only to legislation for small cities. Since the adoption in 1912 of an amendment granting home rule to the cities of Texas, the constitutional power of the legislature over cities is somewhat uncertain; *ibid.*, p. 650.

[2] Dillon, Municipal Corporations (5th ed.), vol. i, sec. 69.

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power, but merely a question as to the acceptance or rejection of a charter." Permitting the voters to decide upon questions of this kind is, he avers, "conformable to those ideas of self-government and self-regulation by the people concerned, which lie at the basis not only of our municipalities but of our institutions."[1] It is perhaps fair to say that the courts have seldom rested their decisions upon such vague and general grounds as these. They have, of course, pursued varying lines of argument in support of referenda of this kind; and not infrequently several lines have been advanced in a single case. In some cases it has been declared broadly that a vote of the people is simply like any other future contingency upon which the operation of laws may be made to depend.[2] Another line of argument has been that in voting upon a charter the people do not "determine whether the act, or any part of it, shall take effect, but only the prudential question whether they will avail themselves

[1] Dillon, *op. cit.*, *ibid.*

[2] Wales *v.* Belcher, 3 Pick. (Mass.) 508 (1826). In this case a law establishing a justices' court in Boston was made to depend upon the acceptance of the city's first charter, the referendum upon incorporation as a city being required by the constitution. The court, however, made no point of this acceptance by indirection. The argument employed would have applied with equal force in the case of a direct vote upon the law. People *ex rel.* Caldwell *v.* Reynolds, 110 Gil. (Ill.) (1848), involving the validity of a referendum upon a law providing for the division of a county; reaffirmed in People *ex rel.* Wilson *v.* Salomon, 51 Ill. 37 (1869), involving a reference to the voters of three towns of an act creating an incorporated park district. In City of Galesburg *v.* Hawkinson, 75 Ill. 152 (1874), a provision of the general city law was held void because it vested in the courts discretionary power in respect to the annexation and separation of territory [but see People *ex rel.* Longenecker *v.* Nelson, 133 Ill. 565 (1890)]; but in People *ex rel.* Dougherty *v.* City of Rock Island, 271 Ill. 412 (1916), it was held, without specific discussion of the point here under consideration, that the portion of the act of 1872 which provided for annexation of territory upon a petition and a referendum was not declared void by the Galesburg case. See also Whittaker *v.* Village of Venice, 150 Ill. 195 (1894), and Young *v.* Carey, 184 Ill. 613 (1900), where the rule of non-delegation was not discussed in cases construing acts providing for annexation upon petition; Manly *v.* City of Raleigh, 4 Jones (N. C.) 370 (1859), sustaining an act extending the boundaries of a city, the same being subject to acceptance by the corporate authorities. The case was discussed as if acceptance by the voters had been required. For the situation in Pennsylvania in respect to the application of the doctrine of future contingencies, see *infra*, note 1, page 290. State *ex rel.* Attorney General *v.* ONeill, 24 Wis. 149 (1869), sustaining a reference to the voters of Milwaukee of an act creating a board of public works.

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of the power conferred." In one case at least it has been held that "the erection of a township or the creation of a new district for merely municipal purposes . . . is in no degree similar to the exercise of law-making power." It is not "an exercise of sovereignty" but is, "in its very nature, a subordinate function."[1] Support has occasionally been sought in the custom of the legislature in this or that state in the matter of submitting charters for local approval.[2] It has been asserted also that "the acceptance of a charter by a vote of a municipal corporation is no more an act of legislation than the acceptance of a charter by the votes of the members of a private corporation."[3] And since "at common law, a charter—even a municipal one—

[1] Commonwealth *v.* Judges of Quarter Sessions, 8 Barr. (Pa.) 391 (1848). This view was advanced to sustain a distinction between a referendum on a law creating a new town and a referendum on a liquor law, the latter having been held void in Parker *v.* Commonwealth, 6 Barr. (Pa.) 507 (1847). In Smith *v.* McCarthy, 56 Pa. St. 359 (1867), a reference to the voters of an act consolidating certain outlying districts with Pittsburgh was upheld without further argument than that it was not "within the principle which forbids the delegation of legislative power." In Locke's Appeal, 72 Pa. St. 491 (1873), the Parker case was expressly overruled, and the distinction above noted was declared to "rest on no difference." By this decision referenda of all varieties were apparently lumped together and sustained upon the theory that a vote of the people was a proper future contingency.

[2] To hold that local referenda amounted to a delegation of legislative power "would disturb a vast amount of the past legislation of the state." Bank of Chenango *v.* Brown, 26 N. Y. 467 (1863). "Almost invariably in practice municipal charters have been granted or altered by our legislature in accordance with the expressed will of the corporators;" citing referendal clauses in the Newark charter of 1836 and the Trenton charter of 1837. City of Paterson *v.* The Society for Establishing Useful Manufactures, 4 Zab. (24 N. J. L.) 385 (1854). "It has been the practice in this state for more than half a century to leave local questions, the location of county seats, the building of public bases, municipal charters and amendments thereof, to the vote of the people to be affected thereby." Caldwell *v.* Barrett, 73 Ga. 604 (1884). The law involved in this case was a liquor law. In Mayor etc. of Brunswick *v.* Finney, 54 Ga. 317 (1875), involving a charter referendum, this legislative practice was not expressly referred to.

[3] City of Paterson *v.* The Society for Establishing Useful Manufactures, 4 Zab. (24 N. J. L.) 385 (1854); Warner *v.* Hoagland, 51 N. J. L. 62 (1888); *In re* Cleveland, 51 N. J. L. 319 (1889); Allison *v.* Corker, 67 N. J. L. 596 (1902). The analogy of acceptance by private corporators is referred to also in Wales *v.* Belcher, 3 Pick. (Mass.) 508 (1826); People *ex rel.* Caldwell *v.* Reynolds, 5 Gil. (Ill.) 1 (1848). Indeed in practically all of the cases that have supported referenda of various kinds upon the general ground that laws may be made to depend upon future contingencies, this analogy has been especially popular.

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was invalid until accepted," it would "appear absurd to say that the general assembly may not provide for an express assent by a vote, when in fact, the validity of the charter turns, as a general rule, on an implied consent."[1] Finally, in a few cases the competence of the legislature to submit to local electorates statutes providing for the incorporation, alteration of boundaries, or government of municipalities, has been sustained without argument by the simple assertion that the weight of authority supports such competence.[2]

It is scarcely necessary to point out that most of these grounds that have been put forward in support of submitting charters and other similar laws to local referenda will not bear critical scrutiny. It has already been indicated that the argument based upon future contingencies in statutes, which would support the reference of any and every law to the voters, is open to serious question. It has been noted, also, that the New York court, which drew the distinction between a vote that enacted a law and one which merely answered the "prudential question" whether the people affected would "avail themselves of the power conferred," admitted that the distinction was "shadowy and difficult to find."[3] The argument that the enactment of a law creating a municipal corporation is not a legislative act at all but a "subordinate function" does not

[1] Mayor etc. of Brunswick *v.* Finney, 54 Ga. 317 (1875). In this case the court also sought to draw support from the fact that the legislature is competent to delegate local legislative powers to the corporate authorities of cities.

[2] People *ex rel.* Love *v.* Nally, 49 Cal. 478 (1875); reaffirmed in People *ex rel.* Graves *v.* McFadden, 22 Pac. 851 (1889). These cases, involving acts affecting the incorporation and boundaries of countries, attempted to distinguish *Ex parte* Wall, 48 Cal. 279 (1874), which held void a liquor "local-option" law, the uncertain ground of distinction being that in the Wall case the voters were authorized to suspend "a general penal statute of the state" while these other cases involved "matters of purely local concern." See also Upham *v.* Supervisors of Sutter County, 8 Cal. 379 (1857) and Hobart *v.* Supervisors of Butte County, 17 Cal. 24 (1860). Lum *v.* Vicksburg, 72 Miss. 950 (1895), sustaining, with a very brief discussion on this point, a provision of the code which permitted the corporate authorities (not the electors) to elect not to be governed by the chapter dealing with municipalities. See also the early case of Williams *v.* Cammack, 27 Miss. 209 (1854).

[3] Bank of Chenango *v.* Brown, 26 N. Y. 467 (1863). See also People *ex rel.* Unger *v.* Kennedy, 207 N. Y. 533 (1913).

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perhaps call for any refutatory comment. There remain, then, only the arguments drawn from custom and the analogy of the necessity of acceptance in the case of charters of private incorporations.

In respect to the matter of custom it is sufficient to state that ever since the advent of the Revolution, when the power of granting municipal charters was transferred from the colonial governor to the several state legislatures, custom in the matter of referring charter laws to the voters concerned has varied widely from state to state, and has been uniform in no state. It follows therefore that, unlike the grant of local legislative powers to the corporate *authorities* of cities, custom in this matter cannot be said to be either "immemorial" or universal. An important rule of law can scarcely rest with security upon a custom more honored in the breach than in the observance.[1]

In respect to the analogy between private and municipal charters, it would be easy to show that from the historical viewpoint such an analogy is very close indeed. In England express or implied acceptance of royal municipal charters was indispensable. In the American colonies formal acceptance of a municipal charter from the governor was doubtless invariable. Moreover, it is certain that proposed provincial legislation was occasionally defeated by the argument that, if enacted, it would infringe upon the charter "rights" of cities. Whatever may have been the precise rule of law upon the subject,[2] there is no doubt that there was a very considerable element of the contractual idea in the charters of American colonial municipalities. But the point of importance is that acceptance either of an original charter or of an amendment or revision has never been regarded as necessary in the case of charters originating either in Parliament or in American state legislatures. With the assumption of charter-making power by the legislative authority the idea of contractual relation quickly disappeared.

[1] For a contrary view see Cleveland, Organized Democracy, ch. xxii.

[2] Occasionally laws relating to colonial cities were enacted over the protest of these corporations. See, for example, New York Colonial Laws, III, 546–548; Minutes of the Common Council of New York City, V, 165.

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From the first presentation of the question to American courts, municipal charters have been declared not to be contracts.[1]

In view of the fact that the charters of private corporations have been held to be contracts, freedom of consent, or acceptance, has naturally been regarded as a *sine qua non*, without which the contractual basis of the relation would be rendered absurdly untenable. But almost the entire history of legislation affecting municipal corporations in the United States, in spite of the fairly numerous instances in which charters and charter amendments have been submitted for local approval, stands in irrevocable refutation of the soundness of the analogy between such referenda and the acceptance of charters by private corporators. To argue that municipal charters in the United States are, in the absence of express provision for local acceptance, validated by "implied consent"[2] is, in consideration of the mandatory character of most of this legislation, no less fictitious than to argue that municipal ordinances are not laws but contracts between the authorities and the inhabitants.[3] The inappropriateness of this analogy is further demonstrated by the fact that the courts have invariably, when the contention has occasionally been made, refused to hold that the local acceptance of a municipal charter or amendment was essential.[4] There certainly seems to be some hiatus of logic in asserting that, on the one hand, municipal charters *may* be made subject to local acceptance because private charters are *of necessity* subject to acceptance by the corporators, but that, on the other hand, municipal charters *need not* be made subject to such acceptance because they lack the fundamental element of a private charter, namely, its contractual character.

It seems reasonable to conclude that the usual grounds upon which the referenda of charters and analogous laws have been sustained are in fact highly vulnerable. It nevertheless remains

[1] McBain, "The Rights of Municipal Corporations under the Contract Clause of the Federal Constitution," in *National Municipal Review*, vol. iii, p. 284.

[2] Mayor etc. of Brunswick *v.* Finney, 54 Ga. 317 (1875).

[3] Parker *v.* Commonwealth, 6 Barr. (Pa.) 507 (1847).

[4] Dillon, Municipal Corporations (5th ed.), vol, i, sec. 69; Blessing *v.* City of Galveston, 42 Tex. 641 (1875).

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true that such referenda have been sustained with practical universality and have gone uncontested in countless instances.[1] The rule, therefore, regardless of the character of its foundation, is about as firmly established as any other rule of our law and is in no danger of serious assault.

If it be frankly conceded, as it perhaps should be, that in accepting or rejecting a proposed charter or analogous law, the voters of the community affected do in fact participate in the making of that law and therefore exercise legislative power, it must also be frankly admitted that the courts would encounter some difficulty in finding a satisfactory foundation upon which to rest the rule in support of such participation. The argument drawn from the relation of agent to principal would be of no avail, for as has been pointed out, the legislature as a whole cannot be regarded as the agent of the people of any particular locality. It would seem that the only possible recourse would be to abandon, in part at least, the canon of strict construction that has been applied to the constitutional clause vesting legislative power in the state legislature, and to declare that while this clause does prohibit the delegation of legislative power to the courts or to the executive—this being part and parcel of the deliberately incorporated scheme of separation—it need not be construed to prevent the delegation of such power to local electorates. Had this latitudinarian doctrine been applied, it would not only have greatly simplified the problem before the courts in these cases but it would also have rendered quite unnecessary the maze of conflicting, hair-splitting, and untenable

[1] Upon a request from the legislature, the supreme court of Massachusetts, dividing four to three, expressed the opinion that the submission to the electors of towns and cities of a law granting suffrage to women in local elections would be unconstitutional on the ground that this was not "a matter of police regulation or of merely local interest." The submission of a similar question to the state electorate or to the existing electorate plus the women to be enfranchised would also be void. Opinions of the Justices, 160 Mass. 586 (1894). It is simply a fact that power in respect to many matters of "state concern"—education, for example—is frequently delegated to the corporate authorities of cities. Moreover, it is a generally accepted rule that the legislature may, without regard to constitutional requirements relating to suffrage, fix the requirements for municipal suffrage. From both points of view, therefore, this opinion seems open to question.

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arguments that go to make up the law upon this subject as expounded by the courts. Such a doctrine certainly would be in sufficient consonance with the genius of our institutions; and since it is obvious that the rule of non-delegation of legislative power to local voters is at best but a *possible* implication of the clause in question, the doctrine suggested would by no means be out of consonance with the general rule of constitutional supremacy over statutes.

The situation is, however, that the rule which sanctions the reference to the voters of a municipal charter or similar law stands established in spite of rather than because of the foundations upon which it has been rested. This fact makes it difficult to discuss with constructive purpose the relation of this rule to the subject of the competence of the legislature to confer home-rule powers upon cities. It is patent, nevertheless, that there must be a close relation between the two and that this relation ought to be clearly and definitely established. If it be true that the voters of a city in accepting a charter proposed by the legislature do in fact participate in the enactment of the charter law, it is highly probable that some substantial ground may be found to support the competence of the legislature to delegate a partial or complete charter-making power —to grant, in other words, self-governing powers by statute. This subject will be discussed in a succeeding paper.

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[*To be concluded*]

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THE OREGON MINIMUM-WAGE CASES[1]

FOR the present, at least, employers and employees in Oregon must obey the minimum-wage law of that state. The Oregon supreme court held that the statute violated neither the state nor the federal constitution.[2] A writ of error was taken to the Supreme Court of the United States to review the decision of the Oregon court on the federal question. A brief on behalf of the state was submitted by Mr. Louis D. Brandeis. After the argument and before a decision was rendered, the personnel of the bench was changed, and Mr. Brandeis became an associate justice. A reargument was ordered. A second brief on behalf of the state was submitted by Professor Felix Frankfurter of the Harvard Law School. Mr. Justice Brandeis was disqualified from sitting by reason of having previously been of counsel. Of the remaining eight members of the court, four were in favor of sustaining the decision of the Oregon court and four were opposed. Since it requires a majority of an appellate tribunal to reverse the judgment of a lower court, the judgment of the state court was undisturbed. Under the rules of the Supreme Court, no opinion was rendered and no announcement was made as to judges who favored the statute and those who were opposed. There is therefore no precedent in the Supreme Court which can be regarded as authoritative when the same problem is again presented for decision. Under these circumstances the brief which was influential in preventing the reversal of the decision of the state court sustaining the statute is of more than usual importance, and the National Consumers' League has done a welcome service in reprinting it and making it available for general distribution.

The brief follows the model set by Mr. Brandeis in the brief on behalf of the state in Muller *v.* Oregon.[3] In addition to the strictly legal

[1] Oregon Minimum Wage Cases. By Felix Frankfurter and Josephine Goldmark. New York, National Consumers' League, 1916.—vi, A 54, 783 pp. This volume is a reprint of the brief presented to the Supreme Court of the United States in behalf of the Oregon Industrial Welfare Commission in the cases of Stettler *v.* O'Hara and Simpson *v.* O'Hara, nos. 25 and 26, October Term, 1916.

[2] Stettler *v.* O'Hara (1914) 69 Oregon 519, 139 Pac. 743; Simpson *v.* O'Hara (1914) 70 Oregon 261, 141 Pac. 158.

[3] (1908) 218 U. S. 412. In this case the Supreme Court upheld the constitutionality of an Oregon statute limiting to ten hours a day the hours of women employed in laundries.

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argument, which occupies 54 pages, there are 76 pages giving all the statutes in the United States and elsewhere which deal with the subject of a minimum wage, and 647 pages presenting the experience on which this legislation is based. The second and third parts of the brief are compiled by Miss Josephine Goldmark and are similar to the work she has done in collaboration with Mr. Brandeis in previous briefs on the constitutionality of various forms of labor legislation. Among the topics to which consideration is given are the evils of low wages, and the benefits which have ensued to employers, employees and the public generally from the minimum-wage legislation now in force. The proof adduced consists largely of statistical information and excerpts from the writings of economists and physiologists.

The bearing of this proof on the strictly legal argument is manifest. If the Oregon minimum-wage law is a proper exercise of the police power, it thereby meets the requirements of due process of law which the Fourteenth Amendment imposes on every state statute depriving any one of liberty or property. For a statute to be a proper exercise of the police power, it must tend to promote some end which is public and not private merely, and it must be a reasonable and not an arbitrary method of serving this end. With regard to the legitimacy of specific ends and means, the Constitution itself is not informing. "Due process of law" does not tell us what ends are public ends, nor what means are reasonable and what means are arbitrary. Any judgment on such matters must be based on knowledge of actual conditions, on prognostications of the probable effect of any legislation on such conditions, and on views of what is desirable. In acquiring this knowledge and making these prognostications, and in forming judgments of what is desirable, recourse must be had to other sources than judicial precedents. Judges cannot know as part of general knowledge the facts as to the actual conditions of employees in industry. And when they are informed as to the facts, their special training does not qualify them as experts in drawing inferences from the facts or in forecasting the effect on the facts of new legislative expedients. Nor does it qualify them as experts in forming judgments as to what effects are most to be desired. In the various aspects of such matters, the expert is the man trained in physiology, economics or statistics. It is unfortunate that our judicial system fails to give judges the aid of auxiliary officials who are experts in the various fields in which courts must pass authoritative legal judgments.[1] The absence of such official experts

[1] See Parke-Davis & Co. *v.* H. K. Mulford Co. (1911) 189 Fed. 95, at p. 115, where, in concluding an opinion involving the validity of a patent, Judge Learned

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attached to the courts throws on the attorneys for contending litigants the burden of guiding the judges to the expert knowledge essential to the wise solution of the problems before them. This is the burden which Miss Goldmark accepts, and her voluminous compilation fulfils most satisfactorily the task devolved upon her.

The material collected by Miss Goldmark is used by Mr. Frankfurter chiefly in the first two of the three points of his argument. In his analysis of the issues involved in determining whether a statute is a proper exercise of the police power, he takes as a basis the familiar canon of Chief Justice Marshall for the construction of the clause giving Congress power "to make all laws which shall be necessary and proper for carrying into execution" the specifically enumerated powers:

> Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional.[1]

Hand observed: "I cannot stop without calling attention to the extraordinary condition of the law which makes it possible for a man without any knowledge of even the rudiments of chemistry to pass upon such questions as these. . . . How long we shall continue to blunder along without the aid of unpartizan and authoritative scientific assistance in the administration of justice, no one knows; but all fair persons not conventionalized by provincial legal habits of mind ought, I should think, unite to effect some such advance."

[1] Though Marshall's canon of construction was formulated as an aid in interpreting the "necessary and proper" clause, it may logically be used as an aid in interpreting the "due process" clause, since the test of what is due process, like the test of what is necessary and proper, is a test of reasonableness. Despite this logical justification, the transfer of the formula to the new use may lead to a wrong implication, for in so using it Mr. Frankfurter apparently accepts the burden of proving the minimum-wage law constitutional and does not insist that the burden is on his opponent to prove it unconstitutional. The formula was invented by Marshall as an aid in determining whether a statute of Congress, not authorized by any specific grant of the Constitution, was within the non-enumerated powers. The question to be determined in the minimum-wage cases was whether the state statute was positively prohibited by the Constitution. Oregon does not have to look to the federal Constitution for any authority to pass its statute. Those who object to the statute have to show in the federal Constitution a positive prohibition against it. Theoretically there is a presumption in favor of the constitutionality of all statutes, and the presumption is stronger in the case of statutes passed by a state in the exercise of undoubted reserved powers than in the case of statutes passed by Congress without specific grant of authority. This distinction is doubtless in Mr. Frankfurter's mind when he says that, if Marshall were speaking today, "instead of saying 'plainly adapted' he would have said 'not plainly unadapted'."

Whether any of these presumptions in favor of constitutionality has any determin-

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The first point of the argument is that the end aimed at by the Oregon minimum-wage law is legitimate and within the scope of the Constitution. The end of the law, as declared in the preamble, is to protect women and minors "from conditions of labor which have a pernicious effect on their health and morals." The preamble further states that "inadequate wages . . . have such a pernicious effect." The support given by the brief to this statement of the preamble consists of tables showing the cost of living for woman factory-workers in Oregon and elsewhere, and the extent to which wages paid to these workers were less than the cost of living.

The second point of the argument is that "the means selected by Oregon 'are appropriate' and 'plainly adapted' to accomplish the legitimate end" of providing for the "deficit between the cost of women's labor—i. e., the means necessary to keep labor going—and any rate of women's pay below the minimum level for living, and so to eliminate all the evils attendant upon such deficits on a large scale." The proof on this point is based on the public opinion cited in favor of minimum-wage legislation and on the actual experience with such legislation. On this is grounded the claim that "Oregon's choice as among the three remedial methods of effort surely was not 'arbitrary' or 'unreasonable'." The other methods referred to are a direct subsidy out of the public treasury to pay a wage equal to the necessary cost of living, and the Massachusetts method of seeking to compel wage increases by pressure of public opinion after published findings of the difference between wages and the cost of living. Here the brief relies on the familiar principle that a state has a choice of means and that the court

ing effect on the actual course of judicial decision is, however, open to serious question. If a statute deprives any one of liberty or property, the courts in fact require some justification for such deprivation in order to hold it not without due process. In deciding whether there is sufficient justification, they seldom, if ever, rely solely on the presumption in favor of constitutionality. What weight, if any, they actually give it, cannot be known. They often assert that a statute will not be declared unconstitutional unless its unconstitutionality is free from doubt. Yet not infrequently five judges declare a statute unconstitutional, in spite of the fact that four of their colleagues are firmly convinced that it is entirely valid. The majority cannot find in the opposing convictions of the minority even the basis of a reasonable doubt. It would seem, therefore, that Mr. Frankfurter has made an accurate analysis of the practical task of convincing a court that a statute is a proper exercise of the police power, when he accepts the burden of showing that the end aimed at by the statute is legitimate, and that the means selected are appropriate and plainly adapted to accomplish those ends. Yet the burden exceeds what could consistently be required by any court whose decisions are actually controlled by the principle that a statute will be annulled only when its unconstitutionality is free from doubt.

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cannot declare the means selected unreasonable merely on the ground that it thinks that some other means would have been preferable.

Thus far the brief raises no serious questions. That it would be constitutional to pass a minimum-wage law provided no one suffered any injury therefrom is hardly open to debate. The determining test in applying the due-process clause is whether the public benefits to be anticipated from the statute counterbalance the resulting burdens cast on individual interests. This is the subject dealt with in the third point of the brief, to which is prefixed the caption: "No rights of plaintiffs secured under the Constitution of the United States prohibit the use of the means adopted by the state of Oregon to accomplish these legitimate public ends."

Mr. Frankfurter wisely wastes no time in contending that the statute involves no deprivation of liberty or property. He frankly concedes that "even the slightest interference with even the most capricious wish of an individual is a deprivation of liberty." And he concedes also that "in so far as unrestrained liberty of business action is to be regarded as also a property right" the statute imposes also a deprivation of property. But he points out that the Constitution does not unqualifiedly forbid deprivations of liberty and property. It forbids only those deprivations which are wanting in due process of law. Thus the brief comes to the crucial question whether the deprivation is with or without due process. This method of analyzing the constitutional question is superior to that adopted by some judges who profess to find a distinction between statutes which merely "regulate" property and those which amount to a "deprivation" of property. It accords with common sense to say that if a man is forbidden to do as he pleases, he is deprived of liberty; if he is caused a money loss, he is deprived of property, even though the loss is of expected gain rather than of existing assets. But the extent and the importance of the liberty or property involved is significant when the deprivation is compared with the public advantages promoted thereby. And a law for the future conduct of one's business which may interfere with anticipated profits may well require less justification of public advantage than does a law which takes away from an individual something to which he already has title.

In opening the argument, Mr. Frankfurter emphasizes the fact that the issue before the court is the constitutionality of a specific scheme of legislation, and that the validity of this legislation is dependent on the signficance of specific facts as to wages and cost of living. He warns the court that it is not called upon to pass judgment on "a

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general or vague theory of wage-fixing by legislation." This is a warning sadly needed by a number of judges, who are so prone to think in generals that they are not unlikely to assume that they could not sustain moderate wage-fixing under certain specific circumstances unless they could sustain all wage-fixing under all circumstances. This habit of thought seems to have dominated Mr. Justice Pitney in his dissenting opinion in Wilson *v.* New[1] on the constitutionality of the Adamson Law. "The right to hire employees," he says, "to bargain freely with them about the rate of wages and from their labors to make lawful gains—these are among the essential rights of property." And there was no qualification that it might make a difference under what circumstances or to what extent a legislature sought to interfere with free bargaining about wages. The majority, on the other hand, took the view that the special circumstances under which the Adamson Law was passed and the fact that its impositions were limited in extent and in time, were material in deciding the question before the court. They saw a difference between an inch and an ell. They realized that the court was deciding a specific issue between two contending litigants and not hypothetical issues between hypothetical litigants. We have developed elaborate judicial procedure for narrowing the issues in trials of questions of fact and for excluding all evidence except that which bears upon the issue. It is equally important that judges in deciding questions of the constitutionality of statutes shall narrow the issue to the precise problem presented for decision and refrain from holding that a specific statute cannot constitutionally be applied to a specific state of facts, if the underlying reason for their decision is their opinion that some other statute could not be constitutionally applied to some other state of facts.

The Oregon minimum-wage cases originated in two suits brought respectively by Stettler, an employer, and by Simpson, one of his woman employees, against the Oregon Industrial Welfare Commission to vacate and annul and enjoin from enforcement an order of the commission forbidding the employment in any manufacturing establishment in Portland of any experienced adult woman worker, paid by time rates of payment, at a weekly wage of less than $8.64, the order containing the recital, "any lesser amount being hereby declared inadequate to supply the necessary cost of living to such women factory workers and to maintain them in health." The amount thus declared to be the

[1] Decided March 19, 1917. No. 797, October Term, 1916. U. S. Adv. Ops 1916, p. 298, 37 Sup. Ct. Rep. 298.

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necessary cost of living was determined by a conference composed in part of representatives of employers, whose report was approved by the commission. The statute provided that on questions of fact the findings of the commission should be conclusive, but that on questions of law an appeal could be taken to the courts. The plaintiffs did not seek to avail themselves of this right of appeal. They did, however, question in the state court the constitutionality of vesting the commission with authority to make a final determination of fact, but without success.[1] The writ of error brought this question before the Supreme Court. Mr. Frankfurter's brief devotes only a short paragraph to the contention, in view of the series of cases in the Supreme Court which have disposed of similar objections.

Before passing to the major issue dealt with in the brief, consideration should be given to two minor points connected with the particular allegations made by the plaintiffs who object to the statute. The employer alleges that the employees whom he pays less than the minimum "are incompetent by reason of age, inability or otherwise to earn greater wages than they are being paid." The employee alleges that $8 is the best wage she is able to get for any labor she is capable of performing, and that the enforcement of the statute will deprive her of her present employment. In answer to these allegations the brief refers to a provision in the statute allowing the commission to issue "to a woman physically defective or crippled by age or otherwise," a special license authorizing her employment at a wage less than the cost of subsistence. Neither Stettler, the employer, nor Simpson, the employee, made application for such special license. Mr. Frankfurter urges against them the familiar principle that they are not entitled to seek judicial relief until they have first exhausted their administrative remedies. The point seems well taken, though it has no bearing on the constitutionality of the statute and would serve only to postpone a judicial settlement of the issue.

Another allegation of Stettler's to which attention is devoted is his complaint that the statute will necessarily restrict him "to the employment of women who are capable of performing labor sufficient to earn said sum of $8.64 or more, and said less competent employees will be

[1] Eakin, J., 69 Oregon, at p. 540: "Due process of law merely requires such tribunals as are proper to deal with the subject in hand. Reasonable notice and a fair opportunity to be heard before some tribunal before it decides the issues are the essentials of due process of law. It is sufficient for the protection of his [Stettler's] constitutional rights if he has notice and is given an opportunity at some state of the proceedings to be heard."

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prevented from laboring for the plaintiff." This is called a claim to the liberty of employing $8 women for $8, instead of $8.64 women for $8.64.

A short answer to any such claim would be that Stettler has no way of knowing that Simpson or any other woman can "earn" $8 in his factory, but cannot "earn" $8.64, any more than he could know that a ton of coal he burns could "earn" $8, but not $8.64. To run his factory he has to have his land, his building, his machines, his fuel, his raw materials, his management, his labor. To sell his product after it is made, he has to have a demand for it, a medium for getting in touch with that demand, and a means of transporting his product to where the demand is. At the end of a year, he may get back his costs and something more, or he may not. If he does not get as much as he would like, what is the reason? Because he paid more for his coal than it gave him back? Or his land, or his building, or his machines? Because he made mistakes in management? Because he advertised too little, or advertised too much? Because the railroads were congested, or freight rates were too high? Because users of boxes were getting tired of paper boxes and preferred some other kind? Or because he paid sixty-four cents a week too much to some of his help? Stettler blames it on the woman. But no system of cost accounting can show just how much each one of these various factors contributed to Stettler's balance or deficit at the end of the year, when each is essential and each operates in conjunction with all the others.

For the purpose of answering Stettler's allegation, Mr. Frankfurter apparently accepts his assumption that it is possible to know just how much each individual employee contributes to the results of the year's operations. He says that Stettler cannot value "a liberty to employ an inefficient woman in the place of an efficient one, if he proposes to pay in either case what the output is really worth." His real grievance is said to be that the statute prevents him from "getting labor at less than the true value of its product." As a reply to Stettler, this seems fair enough. But, whatever Stettler may think about it, his real grievance is that the statute makes him pay more for labor than he would have to pay if left free to drive the hardest bargain he could. Whether before or after the statute he pays less or more than the labor produces must remain uncertain. The statute makes no attempt to deal with such uncertainties. Its theory is, not that the employer must pay what the labor produces for him, but that he must pay what it costs to produce the labor.

This theory of the statute is adopted by Mr. Frankfurter in his

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argument on the major issue whether the deprivations complained of are with or without due process of law. The test of what deprivations are with due process is recognized to be somewhat vague, but the controlling ideas which have dominated the interpretation of the phrase are said to be: "(1) freedom from *arbitrary* or *wanton* interference, and (2) protection against *spoliation* of property." It is insisted that "it is not arbitrary, wanton, or a spoliation for the state to require Stettler to pay the cost of Simpson's labor if he chooses to use it." Stettler's claim to the contrary is said to be based upon a denial of responsibility for the results of Simpson's not receiving enough to support her. He is not the cause of the ensuing evils. This, Mr. Frankfurter does not deny. But he insists that proof of fault is not essential to the constitutionality of legislative imposition of liability, and that certain relationships, of which that of employer and employee is one, involve responsibilities which the law may enforce. Possibly a better phrasing of this point would be that certain relationships justify the legal imposition of liability. Mr. Frankfurter cites a number of decisions sustaining statutes imposing liability without proof of negligence. One of these statutes made municipalities liable for acts of mobs. This seems hardly in point, since manifestly an individual may claim greater freedom from legislative coercion than would be accorded to a subordinate governmental agent of the state. The other cases relate to liability for acts in the nature of tort rather than to impositions of a contractual liability. Is this distinction a material one? It is a constitution we are expounding, as Chief Justice Marshall reminded us a long time ago. It seems frivolous to read into "due process of law" a notion that a state has less power to impose contractual liability where there is no fault than to impose tort liability where there is no fault.

But another distinction between the cases cited and the case before the court is more serious. The statutes already sustained apply to circumstances where, but for some positive act on the part of the defendant, the loss and injury would not have happened. We cannot say that Simpson would not have suffered from lack of proper living conditions if she had not entered the employ of Stettler at less than a living wage, as we can say that a farmer would not have had his cows killed by the operation of a railroad if the railroad had not been built. If the road stops its operations, the cows are safe from danger from trains. But if Stettler closes his factory, Simpson is not safeguarded from want. The injury Simpson suffers is not from anything Stettler does, but from his failure to do something, his failure to pay higher

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wages. The injuries which induced the minimum-wage statute were not caused by any undertaking on the part of employers, but were merely rendered possible by their failure to undertake more than they chose to undertake. Moreover, the minimum-wage statute imposes, not a liability for injuries after they have occurred, but an obligation to conduct one's business so that injuries may be prevented. These distinctions seem sufficient to deprive the cases cited by Mr. Frankfurter of any controlling weight as authority for his contention. They indicate that the minimum-wage statute presents a novel problem.

A statute, however, is not unconstitutional merely because it does something which has not been done before. One of the chief objects of statutes is to change the common law. If there is some reasonable ground for making Stettler pay Simpson for her labor what it costs to furnish it, a law compelling him to do this should be valid, even though no such law has been passed before. The reasonable ground which Mr. Frankfurter urges is that some one must support Stettler's employees if he is to have their labor, and that he gets the benefit of that support. If he does not furnish it, he profits from the acts of others. He is subsidized, either by public or private charity or by something worse. His objection to the statute is that it deprives him of this chance to get a subsidy. He is made liable, not for injuries caused by him, but because of benefits enjoyed by him. If his employees did not live, they could not work for him. The statute says that, if he chooses to take the benefit, he must bear the burden. Four judges held such a law unconstitutional. Yet they must be familiar with elementary principles of quasi-contract which impose liability for voluntary acceptance of benefits.

This would seem in itself a sufficient ground to dismiss Stettlers' objection to the statute. He may, it is true, be unable to conduct his particular business if he cannot get labor at less than cost. If this is the case, he is claiming a constitutional right to be a parasite. If it is not the case, he is claiming a constitutional right to impose part of the costs incurred for the benefit of his business on some good or bad Samaritan who may be induced to contribute to them. Such rights seem to be of an inferior order when weighed in the balance against a public interest.

The discussion thus far has been on the assumption that the minimum-wage statute costs employers a net loss of the amount it increases their pay-roll. But this assumption, the brief urges, is in large measure disproved by experience. It cites the testimony gathered by Miss Goldmark to the effect that higher wages have proved a stimulus to in-

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dustrial efficiency on the part of both employers and employees. To the extent that this is true, the employers' objection to minimum-wage legislation is minimized in weight and is therefore more heavily counterbalanced by the justification of public advantage.[1]

In the argument in favor of the public advantage of minimum-wage legislation, Mr. Frankfurter does not confine himself to the point already noted that it protects employees from inadequate wages which have a pernicious effect on their health and morals. In addition, he urges that it prevents unfair competition between manufacturers by depriving employers who pay wages less than the cost of subsistence of such temporary advantage as they might have over their competitors who voluntarily pay a living wage. The constitutionality of legislation to prevent unfair competition by buying below cost is supported by the various anti-trust acts which have prohibited the unfair competition which takes the form of locally or temporarily selling below cost.[2] Another form of unfair competition dealt with by the statute is said to be that indulged in by employees who on the strength of outside subsidies sell their labor below cost to the detriment of competing employees who are wholly dependent on their wages.

A still bolder ground is taken in the contention that the statute is saved from being "wanton, arbitrary or a spoliation," because it seeks to remedy the actual inherent inequality of bargaining power between employers and employees. This is the ground of constitutionality which Mr. Justice Pitney declined to sanction in Coppage *v.* Kansas,[3] and which Mr. Justice Holmes declared sufficient.[4] Mr. Frankfurter

[1] In considering the possibility of money loss to Stettler from the operation of the statute, it must be borne in mind that we do not have a case of an increase of operating costs to Stettler alone. His competitors within the state are similarly affected. They too must pay a wage equal to the cost of living. If it be objected that not all of Stettler's competitors are located in Oregon, and that neighboring states do not have similar statutes, this is but to say that the economic unit is not coterminous with the political unit. Stettler may possibly suffer for a time because we have a federal rather than a unitary system of government. The situation may be unfortunate, but the remedy is obvious. A familiar example appears in child-labor legislation. The several states were permitted to adopt their local restrictions against the employment of children, notwithstanding the fact that competing employers in other states might still be left without similar restraints. When it appeared that this penalized employers in the states with higher standards, Congress intervened and deprived employers in the states with lower standards of any market outside the state in which they were located.

[2] See Central Lumber Company *v.* South Dakota (1912) 226 U. S. 157.

[3] (1915) 236 U. S. 1.

[4] 236 U. S., at pp. 26–27. "In present conditions a workman not unnaturally

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insists that many of the statutes which have been sustained were necessitated by the inequality of bargaining power between employers and employees, and that their justification rests upon that principle. Among such statutes are those relating to the methods of determining the amount of compensation due employees,[1] the times and manner of payment,[2] statutes prohibiting the assignment of wages,[3] forbidding and penalizing the exaction of usurious interest, prohibiting the advance payment of wages to seamen,[4] and regulating employment agencies.[5] A time-honored instance of this justification for legal interference with the freedom of contract is found in the use of equity powers to defeat coercive contracts.

This section of the brief strikes at the root of the doctrine on which courts have so frequently declared statutes unconstitutional —the doctrine that the due-process clause embodies the theory of *laissez faire* as a limitation on legislative action. It was the rigid insistence on this doctrine by Mr. Justice Harlan in Adair *v.* United States[6] which prompted the searching analysis of it by Roscoe Pound in his article on "Liberty of Contract"[7] in which he answered these questions set forth on his opening page:

> Why, then, do courts persist in the fallacy? Why do so many of them force upon legislation an academic theory of equality in the face of practical conditions of inequality? Why do we find a great and learned court in 1908 taking the long step into the past of dealing with the relation between employer and employee in railway transportation, as if the parties were individuals—as if they were farmers haggling over the sale of a horse? Why is the legal conception of the relation of employer and employee so at variance with the common knowledge of mankind?

may believe that only by belonging to a union can he secure a contract that shall be fair to him. If that belief, whether right or wrong, may be held by a reasonable man, it seems to me that it may be enforced by law in order to establish the equality of position between the parties in which liberty of contract begins."

[1] Requiring payment by "run of mine" weight, McLean *v.* Arkansas (1909) 211 U. S. 539.

[2] Prohibiting contracts to pay employees less often than semi-monthly, Erie Railroad Co. *v.* Williams (1914) 233 U. S. 685. Requiring redemption in money of scrip or store orders issued in payment of wages, Knoxville Iron Co. *v.* Harbison (1901) 183 U. S. 13.

[3] Mutual Loan Co. *v.* Martell (1911) 222 U. S. 225.

[4] Patterson *v.* Bark Eudora (1903) 190 U. S. 169.

[5] Brazee *v.* Michigan (1916) 241 U. S. 340.

[6] (1908) 208 U. S. 261.

[7] 18 *Yale Law Journal* 454 (May 1909).

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The same issue was presented by the minimum-wage cases. Mr. Frankfurter is rigidly scientific in recognizing it. When he writes his concluding paragraphs on the point now under consideration, he is dealing with the real forces which mold the judicial application of the due-process clause to legislation affecting freedom of contract.

> The largest opportunity for the fullest development of men's faculties has undoubtedly been one of the basic considerations of Anglo-American institutions. To the extent that such development touches fundamentals, this political principle is incorporated in the protection of due process (see Butler *v.* Perry, 240 U. S. 328, 333). But just because the largest opportunities for development of men's faculties implies [*sic*] choice and freedom, within the circumscribed range of human freedom, the common law in both phases of its legal functions, namely, through adjudication and legislation, has thrown its weight in favor of the necessitous and conversely has sanctioned, as the proper function of law, the curbing of the "avaricious" and the "malevolently inclined." The principle has been briefly and comprehensively expressed by Lord Chancellor Nothington when he said that "necessitous men are not, truly speaking, free men" (Vernon *v.* Bethell, 2 Eden, 110, 113).
>
> The "liberty of contract" which the present legislation would destroy is only the "liberty" of an employer to abuse and the "liberty" of an employee to be abused. True freedom of contract is established, rather than impaired, by such restrictions. Their very purpose is to assure the parties an equal basis for bargaining, so that they may be *free* to bargain on the merits, and not under the compulsion of a crippling necessity. With no margin or the margin of but a single meal between starvation there can be no true liberty of contract.

The next point made in the brief is closely connected with the preceding one. The statute is called "a reasonable exercise of the state power to minimize danger of unfair or oppressive contracts." The established fact that about half the women in Oregon were receiving less than a living wage is regarded as proof of the likelihood of unfair contracts. It is urged that the state has the same power to limit unrestricted "demand and supply" in the interest of fair and ethical dealing with respect to the wage contract as it has to seek the same object in the same way when it restricts freedom of contract to protect people from exploitation by lotteries,[1] bulk sales,[2] marginal dealing in

[1] Lottery Case (1901) 188 U. S. 321.

[2] Lemieux *v.* Young (1909) 211 U. S. 489.

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stocks,[1] trading stamps[2] and the sale of small bread loaves.[3] Statutes dealing with such matters are designed to secure to unwary buyers a fair equivalent for what they give.[4] The minimum-wage law is designed to secure to unwary and necessitous sellers of labor the equivalent of the cost of what they give.

Finally, the statute is advocated as a "reasonable exercise of the state power to foster the productivity of industry."

> The fundamental policy represented by this act is the prevention of taxation upon sound industries for the artificial support of unsound ones, and the correlative direction of the energies of the state into lines which can be truly productive. Its purpose is to compel those industries which are now parasites either to make themselves self-supporting through higher efficiency or to discontinue.

To promote these various ends, the statute substitutes a conception of relationship for one of free contract. Mr. Frankfurter goes back to the feudal period for the common-law recognition of the concept of relationship as the controlling principle in the reciprocal liabilities of those having different interests in land tenure. "Industry under modern conditions," he says, "has come to be one of the most important fields in which the interrelation of human beings requires supervision and control by the state. . . . We are here dealing with an exercise of the same public power as that of the common law regarding land tenure."

The justifications for the statute in the public interest which it promotes apply as well to the objections of the employee as to those of the employer. That the statute may deprive some employees of the opportunity to get what they are now getting is clear. An employer who is compelled to raise the wages of an employee or to dismiss her may choose the latter alternative. The statute makes provision for mitigating this danger to employees by authorizing the commission to issue to those who are "physically defective, crippled by age or otherwise" licenses to accept employment at less than the cost of living.

[1] Otis *v.* Parker (1903) 187 U. S. 606.

[2] Rast *v.* Van Deman & Lewis Co. (1916) 240 U. S. 342.

[3] Schmidinger *v.* Chicago (1913) 226 U. S. 579.

[4] To the cases cited by Mr. Frankfurter may be added the decisions handed down subsequent to the filing of his brief which sustain the constitutionality of the so-called "Blue Sky" Laws; Hall *v.* Geiger-Jones Co. (January 22, 1917) U. S. Adv. Ops. 1916, p. 217, 37 Sup. Ct. Rep. 217; Caldwell *v.* Sioux Falls Stock Yards Co., *ibid.*, p. 224; Merrick *v.* Halsey & Co., *ibid.* p. 227.

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But it does not obviate the danger entirely, since some who are denied licenses may be unable to obtain employment at the wages fixed by the commission, because employers will not think it worth their while to pay $8.64 for their labor even though they cannot get it for less. Since, however, employers must pay $8.64 for the labor of any normal person, those employees who in fact suffer from the operation of the statute will in the long run be those who are the less competent. Though it is not possible to fix the exact value of the contribution of a laborer to a product created jointly by labor, management, and the use of material facilities, it is certain that some laborers can contribute more to a joint product than can some of their fellows. If, therefore, an employer is compelled to pay a minimum wage, he will inevitably be spurred to get the most efficient labor which he can for that wage, to the resulting loss of employment by some of the less efficient. It seems, then, a safe inference that the employees who may suffer from the act will be the less efficient. The result of the statute to any employee who suffers actual injury from it will be, argues the brief, to compel such employee to become more efficient or to accept the status of a defective. In answer to the contention on behalf of Simpson that the state cannot put her in such a position unless it provides in advance for her maintenance, Mr. Frankfurter says that this ignores the provision of the statute for special licenses, and that it denies the right of the state to determine how defectives may be supported without its being compelled to grant them an indirect subsidy. The statute is said to be the first step in the solution of the problem of determining how to treat those who cannot carry their own weight.

> The state, therefore, may use means, like the present statute, of sorting the normal self-supporting workers from the unemployables and then deal with the latter appropriately as a special class, instead of an indiscriminate, unscientific lumping of all workers, with a resulting unscientific confusion of standards.

The brief cannot be said to deal as adequately with the contentions of the employee as with those of the employer. It seems a legitimate point to have urged that the court should regard the employees as a class, and should recognize that the class as a whole derived such benefit from the statute that the possible loss to a few is greatly overbalanced by the gain to the many, and that therefore no deprivation to the laboring class has to be weighed against the public benefits to be derived from the statute.

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It is apparent that much of the logic in the brief is far from tight. This is inevitable from the nature of the problem. Many of the precedents cited are precedents in favor of the constitutionality of promoting the general economic policy underlying the minimum-wage law. It cannot be said that the economic policy underlying statutes which have been sustained is identical with that of the statutory minimum wage. All that it is possible to show is that the former and the latter have much in common, and that the differences between them are not enough to warrant a court in declaring that the minimum-wage law is an arbitrary and wanton exercise of power. One of the significant contributions of the brief is its emphasis on the point that decisions sustaining statutes under the due-process clause are precedents on the constitutional validity of the legislative promotion of the economic policy favored by the statute. When, therefore, we have statutes which seem novel from the standpoint of their particular incidence and purposes, we may nevertheless find support for their constitutionality by showing economic analogies between them and other statutes which have received judicial approval. When this method of reasoning receives wider acceptance, those who object to the constitutionality of any novel statute may cease to rely on arguments which imply that never before has complete freedom to contract as one pleases been curtailed by legislative enactment.

THOMAS REED POWELL.

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THE STILL SMALL VOICE OF THE HERD[1]

THE importance of *crises* in all organic development has been emphasized by recent anthropologists and sociologists. The crisis or unexpected "fix" in which a creature finds itself furnishes the test of its capacity of readjustment. In the case of man, crisis centers attention on unobserved or ill-understood factors in a situation and may happily lead to more complete control and thus to escape from pressing difficulties. The present war is a crisis of unprecedented magnitude, and is inevitably promoting thinking of unprecedented variety and depth in regard to man's woes, their origin, nature and remedy. The English philosopher Bertrand Russell, surprised in his abstract and subtle metaphysical and mathematical speculations by undreamed-of horrors, directs the resources of an extraordinarily free and highly trained intelligence to the solution of the problem of why we act as we do. He says:

> To me the chief thing to be learnt through the war has been a certain view of the springs of human action, what they are, and what we may legitimately hope that they will become. This view, if it is true, seems to afford a basis for political philosophy more capable of standing erect in a time of crisis than the philosophy of traditional Liberalism has shown itself to be.

His chief theme is not war but rather the great and fundamental reconstruction of economic and social life which shall ultimately make war repugnant to men.

The writer is not versed in the social sciences; he betrays no knowledge of his predecessors in this field of speculation. But if he has *read* little, he seems to have *lived* much, and is evidently acquainted at first hand with men's hopes and dreads, their loves and hates, their timidity and heroism; "and without understanding and sympathy it is impossible to find a cure for the evil from which the world is suffering." This understanding and sympathy combined with a simple and unaffected mode of presentation insure his little book a wide appeal. For they serve to disguise and palliate the absolute ruthlessness with which the author sweeps away the ancient foundations of morality and

[1] Why Men Fight; A Method of Abolishing the International Duel. By Bertrand Russell. New York, The Century Company, 1917. 272 pp.

Instincts of the Herd in Peace and War. By W. Trotter. New York, The Macmillan Company, 1916. 213 pp.

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religion. His is clearly such an exceptionally sweet and decent and high-minded nature that even the timid conservative may forget to recoil with proper horror when he reaches page 200 and reads: "It ought to be recognized that the law is only concerned with marriage through the question of children, and should be indifferent to what is called 'morality,' which is based upon custom and texts of the Bible, not upon any real consideration of the needs of the community." The gentle reader will already have weathered on page 134 the conclusion that "no good to the community, of any sort or kind, results from the private ownership of land. If men were reasonable, they would decree that it should cease tomorrow, with no compensation beyond a moderate life income to the present holders." Taken from their context, these passages produce the impression of lawless radicalism; in the setting in which Mr. Russell places them they seem almost as safe and harmless as the fireside musings of a Presbyterian elder who has just lent ten thousand dollars on a six per cent mortgage.

The object of life is *growth* and to "the principle of growth" the author devotes his first lecture. Now our present institutions are not designed to promote the free and joyous development of the individual as a member of society, for "all our institutions have their historic basis in Authority," and the main purpose of all ancient authority is to hamper the great mass of people and keep them in a safe routine. The promotion of personal adventure is not the object of the Justinian Code, the church, the state, the school, or the institution of matrimony. They all agree in harshly recommending a patient conformity rather than cheerful self-expansion. Accordingly Mr. Russell reviews the disastrous effects of existing institutions under the following headings: "The State," "War as an Institution," "Property," "Education," "Marriage and the Population Question," "Religion and the Churches," with a final chapter on "What we can Do."

As for the state, the author's aim is to show "how great, how unnecessary, how harmful, many of its powers are, and how enormously they might be diminished without loss of what is useful in its activity." "It is the essence of the State to suppress violence within and to facilitate it without. The State makes an entirely artificial division of mankind and of our duties towards them; towards one group we are bound by law, towards the other only by the prudence of highwaymen." The very vastness of the modern state results in a sense of personal helplessness, which is paralyzing to individual initiative. So the state is "one of the chief causes of misery in the modern world and one of the main reasons for the discouragement which prevents men from

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growing to their full mental stature." The remedy seems to lie in a complete revision of the external relations of states to one another, together with far more spontaneous internal social combination, of which syndicalism is an adumbration, under general state control.

Property represents an excessive emphasis on *possession* as against the joys of *creation*. The writer believes that

> incalculable benefits might result from industrial democracy, either on the co-operative model or with the recognition of a trade or industry as a unit for purposes of government, with some kind of Home Rule such as syndicalism aims at securing. There is no reason why all governmental units should be *geographical*: this system was necessary in the past because of the slowness of means of communication, but it is not necessary now.

Our present methods of education fail conspicuously in "reverence" for the child's individuality and proper freedom. The joy of mental adventure Mr. Russell deems to be far commoner in the young than is ordinarily assumed. However this may be there is certainly no great tendency at present to give it a show.

> Men fear thought as they fear nothing else on earth. . . . It is fear that holds men back—fear lest the institutions by which they live should prove harmful, fear lest they themselves should prove less worthy of respect than they have supposed themselves to be. Should the working man think freely about property? Then what will become of us, the rich? Should young men and young women think freely about sex? Then what will become of morality? Should soldiers think freely about war? Then what will become of military discipline?

There are many frank and sagacious observations on marriage and the relations of men and women out of matrimony. Our old ideas are based on authority, the new must be based on liberty. "Here, as elsewhere, liberty is the basis of political wisdom. And when liberty has been won, what remains to be desired must be left to the conscience and religion of individual men and women." For the older notions of religion Russell naturally has no sympathy; however appropriate they may have been when men knew less, modern knowledge and criticism have destroyed the assumptions on which they were based. To him the problem is to find a harmonious situation in which our fundamental instincts, our powers of reasoning and our kindly interest in our fellow men should one and all receive proper recognition. "Instinct, mind and spirit are each a help to the others when their development is free and unvitiated; but when corruption comes into any one of the three,

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not only does that one fail, but the others also become poisoned." The writer is particularly sensitive to the dangerous suppression of instinct in historical religions, especially Christianity. He is also on his guard against an exaggerated intellectualism which is not blended with "reverence" for our fundamental impulses and for our fellow creatures.

This is a highly inadequate account of a truly remarkable book and no one has any business to neglect reading the work itself just because I have failed to reproduce the sweet reasonableness of its brave, free and enlightened author.

Mr. Russell's book appeared in England under the more appropriate title of "Principles of Social Reconstruction." It was received with jeers and taunts by the London *Spectator* and *The Athenæum*. The reviewers regarded its suggestions as too sinful and absurd to deserve a moment's consideration on the part of any right-minded citizen. Of course the attitude of the author toward the present war is sufficient to explain this, but it is to be suspected that his book would have received little sympathy even if it had come out before August 1914. The reason is obvious enough; he opposes himself at every point to the instincts of the herd, whether in peace or at war. Mr. Trotter's volume supplies the key to the whole situation, for he furnishes an incomparable analysis of the basis and nature of social convictions, the essential difficulties involved in any attempt to modify them, and the bitter mortifications which are encountered by those who venture even to criticize them.

In the years 1908 and 1909, Mr. Trotter published two articles in the *Sociological Review* on "Herd Instinct and its Bearing on the Psychology of Civilized Man." These he now republishes with additional "Speculations upon the Human Mind in 1915." He reproduces the original essays as they first appeared, in order to reassure his readers that his reasoning was not distorted by the present crisis.

Mr. Trotter's book is a contribution to social psychology. Indeed he denies that there can be any other kind of psychology, since we know nothing of man in a state of solitude and isolation from a group. While "each of us has the strongest conviction that his conduct and beliefs are fundamentally individual and reasonable," this is a gross illusion. Our beliefs and opinions, like our standards of conduct, come to us insensibly as products of our companionship with our fellow men, not as results of our personal experience and the inferences we individually make from our own observations. We are constantly misled by our extraordinary faculty of "rationalizing"—that is, of devising

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plausible arguments for accepting what is imposed upon us by the traditions of the group to which we belong. We are abjectly credulous by nature, and instinctively accept the verdicts of the group. We are suggestible not merely when under the spell of an excited mob or a fervent revival but we are ever and always listening to the *still small voice of the herd*, and are ever ready to defend and justify its instructions and warnings, and accept them as the mature results of our own reasoning.

William James was one of the first to realize that our conduct is largely instinctive, and since his great work appeared a vast amount of highly revolutionary and fruitful discussion has been carried on with the hope of discovering the fundamental springs of conduct and thought. James gives a long list of instincts, including "sociability," for he well understood that man is a gregarious animal. Mr. Trotter satisfies himself with a very general classification—nutrition, reproduction, self-preservation and gregariousness. It is the last of these, together with its natural concomitant, suggestibility, that serves to explain, as he claims, "a large bulk of the furniture of the mind."

Now unhappily instinctive belief is ordinarily indistinguishable in our minds from verifiable knowledge. How are we to separate real reasoning from "rationalizing"? Can we tell whether our cherished beliefs about the state, private property, education and marriage are a careful series of inferences based upon critical observation of the workings of these institutions as they now exist, or are at bottom the current traditions of society? Yes, there is a way of doing this, Mr. Trotter answers. If we are perfectly confident that we are hearkening to the voice of God we may be quite sure that it is the voice of the herd. *Vox dei vox populi*.

> Non-rational judgments, being the product of suggestion, will have the quality of instinctive opinion, as we may call it, of belief in a strict sense. The essence of this quality is obviousness. . . . To question it is to the believer to carry skepticism to an insane degree, and will be met by contempt, disapproval, or condemnation, according to the nature of the belief in question. When, therefore, we find ourselves entertaining an opinion about the basis of which there is a quality of feeling which tells us that to inquire into it would be absurd, obviously unnecessary, unprofitable, undesirable, bad form, or wicked, we may know that that opinion is a non-rational one, and probably, founded upon inadequate evidence. Opinions, on the other hand, which are acquired as the result of experience alone do not possess this quality of primary certitude. They are true in the sense of being verifiable, but they are unaccompanied by that profound feeling of

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truth which belief possesses, and, therefore, we have no sense of reluctance in admitting inquiry into them.

If we are insolently or complacently confident of the truth of a belief we may be equally confident that we probably have no good reason for accepting it. I remember distinctly my organic revulsion when as a boy I first heard the doctrine of immortality questioned. I had no interest in the matter and no least argument to offer in support of the idea that we should all come to, on the other side of Jordan; nevertheless I felt like striking down the blasphemer. Even so with the reviewers who clubbed Mr. Russell in the *Spectator* and *Athenæum*. They found sweet relief in an easy instinctive reaction which they would have had to forgo if they had allowed their intellects to play over the subject. Moreover as they dealt their blows they could hear the bravos of all their respectable, God-fearing and patriotic fellow citizens. Mr. Russell, on the other hand, must sadly renounce the warm contact of his fellow sheep and reconcile himself to chilly isolation. There is of course the distant possibility that, as has happened in the case of Giordano Bruno, "the generation which he foresaw" may three hundred years hence erect a monument to his memory. But, as the reviewers in the *Spectator* and *Athenæum* tacitly acknowledge, this is cold comfort for a wandering sheep.

We can now begin to see why it is, as Mr. Russell points out in a passage given above, that men fear thinking more than they fear death. It is because honest reasoning is such an unsocial enterprise. And what is unsocial is by a process of rationalization damned as dangerous. This particular piece of rationalizing is based upon the assumption that man is naturally a selfish animal, seeking his own, with at best a secondary, derived, and precarious interest in his fellows. This hypothesis underlay both Calvinism and utilitarianism. To permit and encourage men to think freely might therefore lead to such an inordinate recrudescence of individualism that society would deliquesce, like a rotten mushroom, into its constituent parts, and revert to pristine anarchy. But of such anarchy we have no trace in the history of man or in the organization of the lowliest savages who can be observed today. The conviction is now growing that man is inherently gregarious; too altruistic in many of his habits, above all in his speculations and beliefs. He now finds himself in absolutely unprecedented conditions owing to the recent fundamental modifications in civilization. How is he to adjust himself to these new conditions, meet the new difficulties, and take advantage of the new possibilities which are opening out every

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day, unless he free his mind on an unprecedented scale? Reverence for the voice of the herd was never before so fatal as it is now, for never did it involve the acceptance of such preposterous anachronisms, never before such a neglect of the lessons of experience. One of the striking features of savage thought and belief is its impermeability to experience, and there are no more impressive passages in Mr. Trotter's book than his discussion of the conflicts which arise in modern life between the dictates of the herd and individual knowledge and desire. Conscience, the moral sense (as it used to be called), the Freudian "censor," may all be explained as the still small voice of the group, expressing itself in vague disapproval or poignant remorse. Religion is "the consequence of that yearning in us which is identical with the mechanism that binds the wolf to the pack, the sheep to the flock, and to the dog makes the company of his master like walking with God in the cool of the evening" (page 51). It is "normal" to belong to the herd and think its thoughts; it is "abnormal" and "degenerate" to question or oppose its teachings and behests.

The great problem then emerges: How are we to secure mental adaptability and overcome the strong resistance of our gregarious nature? How is honest thinking and expedient and essential skepticism to be made respectable and perhaps even popular? We are deluged with new conditions and new experiences. They cannot be dealt with in old respectable ways, by appeals to ancient authority or reliance on the moral sense. We must foster a new type of mentality, a new frame of mind, and sufficient instability to prepare the way for re-adaptation. We must recognize that mental stability is inappropriate to an age of increasingly rapid change in our environment due to the applications of scientific knowledge.

> It is this survival, so to say, of the waggoner upon the foot plate of the express engine, which has made the modern history of nations a series of such breathless adventures and hairbreadth escapes. To those who are able to view national affairs from an objective standpoint, it is obvious that each of these escapes might very easily have been a disaster, and that sooner or later one of them must be such [page 55].

This ominous sentence was written about ten years ago. The European ministries continued to "rationalize" their vain system of diplomacy; the Germans stood by their leader and his tribal god; they allowed too many essential considerations to escape them, and the disaster is upon us, far outrunning in magnitude anything Mr. Trotter would have ventured to forecast. Such is the penalty for listening to

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the voice of the herd once too often; such is the price we are all paying, the world over, for a certain freeing of the mind which we can already happily detect in the midst of the frenzy of battle.

That portion of Mr. Trotter's book which was written under the influence of the war is devoted partly to very ingenious and often amusing developments of the fundamental theories set forth in the original essays, partly to an attempt to establish the salient differences between the English and the German point of view. Germany represents a lupine or wolfish, predatory form of gregariousness, to which the individual must necessarily conform. England, on the other hand, suggests the organization of the beehive, ill-suited to aggression and conquest. To the writer this is no vague analogy or parable—as it will seem to many readers—but the biological basis of a crucial historical issue.

If we desire to get any insight into the mind and moral power of Germany, we must begin with the realization that the two peoples are separated by a profound difference in instinctive feeling. Nature has provided but few roads for gregarious species to follow. Between the path England finds herself in and that which Germany has chosen there is a divergence which almost amounts to a specific difference in the biological scale. In this, perhaps, lies the cause of the desperate and unparalled ferocity of this war. It is a war not so much of contending nations as of contending species. We are not taking part in a mere war, but in one of Nature's august experiments. It is as if she had set herself to try out in her workshop the strength of the socialized and aggressive types. To the socialized peoples she has entrusted the task of proving that her old faith in cruelty and blood is at last an anachronism. To try them, she has given substance to the creation of a nightmare, and they must destroy this werewolf or die.

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REVIEWS

The Treaty-Making Power of the United States and the Methods of its Enforcement as affecting the Police Powers of the States. By CHARLES H. BURR. (Proceedings of the American Philosophical Society.) Lancaster, Pa., New Era Printing Company, 1912.—pp. 269–422.

National Supremacy: Treaty Power v. State Power. By EDWARD S. CORWIN. New York, Henry Holt and Company, 1913.—viii, 321 pp.

Limitations of the Treaty-Making Power under the Constitution of the United States. By HENRY ST. GEORGE TUCKER. Boston, Little, Brown, and Company, 1915.—xxi, 444 pp.

The monograph by Mr. Burr is one of nine essays submitted to the American Philosophical Society for the Henry M. Phillips Prize for the best dissertation on the subject mentioned in the title. Its meritorious character is presumptively attested by the circumstance that it secured the award. A careful examination shows that its excellence is intrinsic as well as comparative. In reality it constitutes a distinct and material contribution to the exposition of the nature and extent of a power than which none more far-reaching or more important is confided to the national government. The author's clear and precise preliminary statement is followed by a full and analytical discussion of the federal cases, and especially of those which have been determined by the Supreme Court of the United States. In performing this task Mr. Burr displays an intelligent discrimination, the lack of which often causes writers to flounder about among inconsistent dicta in apparent unconsciousness of the fact that the dicta are inconsistent and that the inconsistency, proceeding from radically different conceptions of the nature and powers of the government of the United States, is such as to render appropriate the rejection of one or the other view rather than an attempt to reconcile them.

The view maintained by Mr. Burr, as the result of his investigations, is that the treaty-making power is, within the lines drawn by international usage, practically unlimited. To the suggestion that a treaty stipulation cannot control the exercise of state police powers, his answer is that, "without qualification of any kind whatsoever and

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without limitation by any possible definition of the treaty-making power, a treaty provision as the embodied manifestation of the federal will is supreme over any and all state enactments made in the exercise of the police power." This opinion he maintains upon the strength of the purposes and beliefs of the framers of the Constitution, and on contemporary interpretations of that instrument by the Supreme Court, especially while Marshall was chief justice, as well as upon the decisions of that tribunal since the Civil War.

The committee of the American Philosophical Society, in making its award, stated that it had "found very great difficulty" in deciding between Mr. Burr's essay and one written by Mr. Edward S. Corwin, whose present volume apparently preserves the results of his effort. Mr. Corwin's conclusions are in harmony with those of Mr. Burr. He maintains (1) that the treaty-making power is not constitutionally restricted by the police powers of the states, and (2) that no real peril lurks in this view. Not only, as he points out, did the framers of the Constitution repeatedly refuse to insert a clause to safeguard the internal police of the states against the operation of federal power, but they specifically recognized that the treaty-making power might deal with subjects reserved to the states. Such was the view early taken by the courts, and it has been confirmed by subsequent practice. That it involves no real danger is, as he contends, shown by the circumstance that the Senate, without whose approval a treaty cannot be ratified, is so constitued as to represent in a special sense state interests, as well as by other considerations of a legal and practical nature.

Mr. Tucker approaches the subject from a different point of view. Considering what he deems to be "limitations on the treaty-making power," he concludes that a treaty "cannot take away or impair the fundamental rights and liberties of the people, secured to them in the Constitution itself, or in any Amendment thereof;" that it cannot bind the government to do "what is expressly or impliedly forbidden in the Constitution;" that it "cannot change the form of the government of the United States;" that, where the protection or control of personal or property rights is by the Constitution confided to a state, the latter cannot be ousted of its jurisdiction "by having the same transferred to the treaty-making power;" and that "the treaty power cannot confer greater rights upon foreigners than are accorded citizens of the United States under the Constitution."

In the main it may be said that these so-called "limitations," in the broad and general terms in which they are expressed, involve in a proper sense not so much the question of restrictions upon the treaty-

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making power as that of its proper scope. Probably no one would contend that any power given under the Constitution for a certain purpose, though unlimited as to the appropriate subject-matter, could be equally employed for any other purpose. Should the courts, being invested with all the judicial power of the federal government, undertake to pass statutes, or should the president, in the exercise of his executive functions, assume to render judicial decisions, or should the Congress, as the national legislature, engage in diplomatic correspondence, we should think of these acts as mere usurpations rather than as stretches of power. The conceptions are quite distinct.

Of his proposition that treaties "cannot confer greater rights upon foreigners than are accorded to citizens of the United States under the Constitution," Mr. Tucker remarks that it "would seem to be self-evident from the very nature and object of governments, and therefore needs no discussion." It may, however, be observed that the enunciation of "rights" as "self-evident" is often found to be strangely at variance with actual legal conditions. The word "rights" is itself a term that requires definition and specification. Certain it is that there is no country in which the position of aliens does not to some extent differ from that of citizens, and if in the term "rights" we embrace privileges and exemptions, there is no country in which rights are not accorded and secured to aliens by treaty in matters in which natives enjoy none. On the other hand, the alien may in other particulars enjoy less "rights" than the citizen. The simple truth is that the two categories are different, and that neither can be controlled by sweeping inferences from the position or condition of the other.

But, to come to questions of a tangible and concrete nature, there is one subject on which Mr. Tucker seeks to propound a view essentially opposed to that maintained by the two previous writers, namely, as to matters falling within the police powers and "reserved" powers of the states. He would exclude such matters from treaty regulation; and in this relation he largely relies upon a partly new version or interpretation of Ware *v.* Hylton (3 Dallas, 199), decided by the Supreme Court of the United States in 1796. Much as I should personally be inclined to concur in any view set forth by Mr. Tucker, I find myself wholly unable to accept this novel version, nor has it, in my opinion, the importance ascribed to it. During the Revolution, Virginia, like some other states, adopted legislation for the sequestration or confiscation of debts due to British subjects prior to the war, whereby payment into the state treasury was declared to be a bar to any future suit by the creditor for the recovery of the money. By article iv of

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the treaty of peace with Great Britain of 1782–83, an attempt was made to nullify such acts, by agreeing that creditors on either side should meet with "no lawful impediment to the recovery of the full value in sterling money of all *bona fide* debts" theretofore contracted. It was in order to give effect, among other things, to this very stipulation that the Constitution was made (article vi, clause 2) expressly to declare that "all treaties *made* or which shall be made, under the authority of the United States, shall be the supreme law of the land," and that the judges "in every state" should be "bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding." Language could not be plainer, nor could the intent, as demonstrated by the historical record, be clearer, that the state statutes were in this matter to give way to and fall before the treaty. Mr. Tucker, however, essays to question the judicial assertion of the supremacy of the treaty in Ware *v.* Hylton, by arguing that, as some of the justices thought that the Virginia law did not finally "confiscate" debts, the treaty was not held to override the statutory bar because there was no such bar to be overridden!

In answer to this suggestion, it perhaps might suffice to point out that, as it was the avowed object of the treaty to remove any and every "lawful impediment," without regard to the form, the question of "confiscation" (save on the theory of Mr. Justice Wilson, hereafter noticed) was in effect immaterial; but we will examine the judicial record.

There were five judges in the court, Iredell, Chase, Paterson, Cushing and Wilson. Iredell, as the reporter states, did not take part in the decision, though he read the opinion he had delivered in the court below. Chase, as Mr. Tucker concedes, squarely held that the treaty was superior to the Virginia law and annulled it. And so did the three remaining judges; for, when we examine their opinions, we find that the effect which Mr. Tucker attaches to the word "confiscate" is altogether illusory. Regarding the "confiscation" of private debts as "disreputable," the judges sought, while holding that the treaty removed the bar of the statutes, to find in the language of those enactments evidence that the state did not intend a *permanent* deprivation and thus to console the unfortunate debtor-defendant with the hope that the state might eventually step in and pay the judgment rendered against him. Justice Wilson did indeed incline to the view that Virginia had exceeded her power, arguing that the power to confiscate debts due to aliens belonged exclusively to the "nation;" but he hastened to add that, even if she had that power, "the treaty annuls

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the confiscation." Paterson said: "The Fourth Article . . . removes all lawful impediments, repeals the legislative act of Virginia . . . and with regard to the creditor annuls everything done under it." Cushing said he should "not question the right of a state to confiscate debts;" he thought, however, that an intent was expressed in the Virginia act of 1777 not to "confiscate" (using the word in the sense of permanency), unless Great Britain should set the example. But, he continued, if payment under the act was "to be considered as a discharge, or a bar, so long as the act had force," was there "a power, by the treaty . . . entirely to remove this law, and this bar, out of the creditor's way? This power," he declared, "seems not to have been contended against by the defendant's counsel: and, indeed, it cannot be denied; the treaty having been sanctioned, in all its parts, by the Constitution of the United States, as the supreme law of the land." He further affirmed that "the plain and obvious meaning" of the treaty was "to nullify, *ab initio*, all laws, or the impediments of any law, as far as they might have been designed to impair, or impede, the creditor's right, or remedy, against his original debtor;" and that it must also "annihilate all [state] tender laws, making anything a tender, but sterling money."

In the face of these clear and decisive pronouncements, on which the judgment of the court was founded, we are at liberty to believe that the understanding of Ware *v.* Hylton entertained by the bench and the bar for a hundred and twenty years remains unshaken. But, even were the fact otherwise, we should not be justified in holding that a plain provision of the Constitution may be nullified by the discovery that some case that was supposed to have given judicial effect to it had been erroneously interpreted.

There is a method of interpreting the Constitution which may be denominated the *apprehensive*. It is fertile in doubts, and treats of powers as subjects of abuse rather than as national necessities or sources of advantage. Approaching the treaty-making power in this spirit, writers too often forget that, in proportion as they would curtail, thwart, and hamper the operation of the ample clause of the Constitution in this country, in the same measure must citizens of the United States be put at a disadvantage in foreign countries, reciprocity being essential to successful negotiation. One of the primary objects of treaty making is the regulation of the rights of aliens. The first treaties made by the United States exercised this power. That it was a valid exercise of power was not doubted.

J. B. MOORE.

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Retrospections of an Active Life. By JOHN BIGELOW. Volumes IV and V. New York, Doubleday, Page and Company, 1913. —572, 459 pp.

These two volumes complete the set of which the first three were reviewed in the POLITICAL SCIENCE QUARTERLY (volume xxv, page 138). Mr. Bigelow died in 1911, at the age of ninety-four. The preparation of these volumes was the task to which his last years were devoted, and it was substantially completed when he passed away. They cover the period 1867–1879, years less rich in dramatic experience than those that immediately preceded, but hardly less full of incidents likely to inform and amuse the historically-minded reader.

Before referring to the more serious matters touched upon in the volumes it should be stated that the reader in search of mere entertainment will not go unrewarded, especially if he looks with some attention through the selections from the correspondence of Mr. Bigelow with his more intimate friends. John Hay contributes a number of items that exhibit the same epistolary vivacity that enlivens Mr. Thayer's *Life and Letters of John Hay*. Most copious, however, is the stream of humor that flows from the pen of Huntington, Paris correspondent of the *New York Tribune*, whose spirit and tastes seem to have been singularly congenial to Bigelow. It would be hard to find, for example, a more diverting essay in the gentle art of malediction than that which appears in a letter of Huntington's of August 16, 1869. Huntington was a collector of *Americana*, and he learned one day that a piece he was interested in had been picked up at a bargain by another collector. Telling Bigelow of his woe, Huntington bursts out upon his lucky and unconscious rival with these fearsome curses:

> May corns and bunions wait upon his steps! Let him miss the omnibus and the hour for mailing! Let his proprietor raise the *loyer*, and the *concierge* forget the names of his visitors! May bedbugs bite him, and showers catch him without an unbrella! Let carriages bespatter him, and deserving but needy Americans get monies out of him, and the binder mis-letter his books! May his shirt buttons fall off, and his coat ruck in the back! . . . Let his cigar not draw, and his ink be muddy and his lamp sputter and go out! I hate him [volume iv, page 309].

The two volumes under review begin with Mr. Bigelow's retirement from service as minister to France. He never again held office under the federal government, but between the spring of 1875 and the end of 1877 he served the state of New York, first as appointed commis-

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sioner for the investigation of the canals and afterwards as elected secretary of state. His acceptance of office in both these cases was due chiefly to the influence of Governor Samuel J. Tilden, with whom his relations became personally those of closest intimacy. This period brought the definite severance of Bigelow's connection with the Republican party. Like so many other old Democrats who had left their party in the fifties on the slavery issue, he rejoined it in Grant's second term, under the combined influence of disgust with the administration and hope in the possibilities of a reformed Democracy led by Tilden. Bigelow's position in 1875, just at the turn of the tide, is rather strikingly revealed by the fact that the Republicans in that year offered him the nomination for state controller just as the Democrats offered him that for secretary of state.

To one interested in the inside political history of the period covered by Mr. Bigelow in these volumes, the most attractive passages will be those treating of his intercourse with Seward, Grant, Greeley and Tilden. He was on cordial terms with Seward till the latter's death. He saw much of the secretary in the closing years of the Johnson administration. One passage from Bigelow's diary, describing a visit at Seward's house in September 1868, embodies a striking confirmation of the story found by the reviewer in the Johnson papers concerning the purchase of Alaska (POLITICAL SCIENCE QUARTERLY, volume xxvii, page 385). While looking at a picture representing the signing of the treaty, Seward said:

> Do you wish to know how that treaty was consummated? . . . Then I must put you under oath. Before that money could be voted, two thousand dollars had to be given to Robert J. Walker, ten thousand to his partner, F. K. Stanton, ten thousand to two members of Congress, and twenty thousand to Forney, who had lost forty thousand by the defalcation of his clerk. One thousand more were to have been given to poor Thad. Stevens, but no one would undertake to give that to him, so I undertook it myself. The poor fellow died, and I have it now [volume iv, page 216].

This is the same story, with slight difference in the details, which was told by Seward to Johnson, making such an impression on the President that he wrote it down at the earliest opportunity. The impression made on Bigelow was equally deep: "This statement," he adds in his diary, "gave me much food for reflection on my way back to the hotel."

With Grant and Greeley, Bigelow came into personal acquaintance only after his return from France. From both he was early and com-

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pletely alienated, for reasons that throw valuable light on both the characteristics of the men concerned and the general spirit of the times. As to Tilden, the volumes merely illustrate with greater fulness and intimacy the relations and feelings concerning him that have been revealed in Bigelow's *Life of Tilden* and other writings. A single incident recorded in Bigelow's diary may be mentioned for its significance as to the tension in Tilden's mind just after the November election in 1876. In that election Lucius Robinson was chosen to succeed Tilden as governor of New York. At a conference between the two on November 22, Tilden "suggested to Robinson the question whether it might not be well to make General McClellan his adjutant, in view of possible contingencies" (volume v, page 288).

Outside the field of American public life, the breadth and depth of Bigelow's association with the intellectual currents of the mid-Victorian period may be suggested by a mere mention of some of the personages with whom these volumes show him to have been in oral or epistolary contact. For France the list includes Victor Hugo, Louis Blanc, Thiers, Laboulaye, Prévost-Paradol, the Duc de Broglie, and Father Hyacinthe. For Germany, which Bigelow visited twice during the period covered, there are Helmholtz, Moltke, Georg von Bunsen, Gneist, Mommsen, Droysen, and Curtius; for England, Dickens, Wilkie Collins, John Bright, Gladstone, Bulwer-Lytton, "Bull Run" Russell and Martin Farquhar Tupper. To some readers the last fine shadings that define the spirit of the 1870's will appear in what Bigelow tells and suggests as to two of these persons who are utterly unknown to the present generation—Father Hyacinthe and Tupper.

WM. A. DUNNING.

The Nullification Controversy in South Carolina. By CHAUNCEY S. BOUCHER. Chicago, University of Chicago Press, 1916.—xi, 399 pp.

It is natural to compare a new work on the nullification conflict with D. F. Houston's very satisfactory monograph entitled *A Critical Study of Nullification in South Carolina*, published twenty years ago. Both authors have used unpublished manuscripts, especially the Hammond, Jackson and Van Buren papers in the Library of Congress, and the Poinsett papers of the Pennsylvania Library Society in Philadelphia, as well as the numerous pamphlet collections of the Charleston and South Carolina (Columbia) Library Societies; both have profited by the numerous secondary works of historians, biographers, and econo-

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mists, although, of course, Professor Boucher has the advantage of the use of the more recent works like Jameson's exhaustive collection of the correspondence of Calhoun, and Phillips' studies of states rights in the South. There is necessarily much that is common ground in the essays, though they are by no means identical in scope or treatment. Houston emphasizes rather the significance of the nullification controversy in its national aspect, as a study in the theory of states rights, while Boucher confines himself more closely to the domestic features of the conflict. Houston deals with nullification as a political doctrine, while Boucher emphasizes the controversy which this doctrine provoked in the state of South Carolina. There are only two chapters in Boucher's book which deal primarily or even largely with the national significance of the controversy, namely, "Jackson and Nullification" and "The Compromise Tariff and the Force Bill."

The author has made very extensive use of files of newspapers in South Carolina, no fewer than twenty-two being cited in his notes. The result is a vivid and "contemporaneous" picture of the movement, the more convincing as the author has shown the skill and tact to avoid the besetting literary sin of writers who rely much on newspaper sources, namely, a tendency to patchwork and cataloguing. The narrative moves on smoothly and logically from the first ominous warnings of the controversy in the anti-bank and anti-tariff resolutions of the legislature of 1825, to the bitter fight over the test oath of 1833.

Some especially strong features of the book are the emphasis on the Union party in the state, the clear distinction between the impolicy and the unconstitutionality of the tariff acts, and the measures proposed by moderate men short of an actual political break with the federal government (such as a boycott of northern manufactures, or a tax on such imports when they should have become incorporated into the property of the state, or the encouragement of manufactures to compete with the North). More than half the work is devoted to the conflict of opinion in South Carolina itself before the nullifiers captured the legislature and began to put through their program. This is the original and valuable part of the book. In it the author develops with a wealth of illustration the gradual growth of nullification sentiment against a very strong opposition. The Charleston elections as late as September 1830 and the state elections of the month following still showed a majority for the Union party, although the margin was very small in the legislature. The senate vote was twenty-three to eighteen and the house vote sixty to fifty-six against calling a convention to recommend nullification. By the next autumn, however, sentiment had changed, and the Convention party found itself in power.

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The reader is impressed with the very general anticipation of the sentiments and arguments which reappear in the secession controversy of the decade 1850–1860. Even the language of the Fourteenth Amendment is used in an article in the Unionist paper, the *Courier*, in 1832: "The citizens of every state in the Union are also citizens of the United States, and until they are absolved from their allegiance to the latter, the levying of war against the United States, . . . would amount to treason under the Constitution."

There is little to take exception to either in the author's statements of fact or in his interpretations and judgments, though here and there one may question a phrase. For example, is it exactly right to speak of the "southern opposition to the tariff of abominations," in view of the subterfuge to which the southern congressmen in their desperation resorted, in order to kill the tariff in the house of its friends?

The usefulness of Professor's Boucher's monograph is enhanced by the inclusion of a number of carefully prepared maps of South Carolina illustrating in great detail the votes of different sections of the state on the calling of a convention in 1830 and 1832, on the Jackson and anti-Jackson caucuses of 1831, on Governor Hamilton's answer to Jackson's famous proclamation in 1832, and on the test oaths of 1832 and 1833. The book is provided with an ample bibliography.

D. S. MUZZEY.

A History of the Western Boundary of the Louisiana Purchase, 1819–1841. By THOMAS MAITLAND MARSHALL. Berkeley, University of California Press, 1914.—xiii, 266 pp.

This is a painstaking monograph on a subject not heretofore dealt with in a comprehensive way. Other writers have discussed certain aspects of it, but for the most part they have done so only incidentally and without considering it in its wider relations. Even in the present volume, no attempt is made to explore the documentary material relating to the boundary during the Spanish-French régime. The narrative is confined to questions which primarily involve the United States.

At the outset the author sets forth the history of the purchase of Louisiana by the United States. On certain points his views differ somewhat from those of Henry Adams, particularly as to the precise time when Napoleon decided to sell Louisiana, but in the main he accepts Adams' version of the transaction. The cession placed Spain in a very difficult position, and, jealous as she naturally was of the expansion of the United States, she inevitably sought to restrict the

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limits of the ceded territory. That she took Wilkinson into her pay while he was on the western frontier is not surprising. Mr. Marshall dissents from the view that the claim of the United States to Texas was given up in order to secure the Floridas. He believes that the acquisition of the Floridas was practically assured early in 1818, and that Texas was exchanged, not for the Floridas, but for the Spanish claims to Oregon.

Mr. Marshall traces at much length, chiefly through the congressional debates and public documents, the course of the negotiations between the United States and Mexico for the settlement of the boundary between the former and Texas. He inclines to the opinion that the toleration by President Jackson and his secretary of state of the devious course of Anthony Butler, even though they did not accept his repeated proposals to attempt the bribery of Mexican officials, went farther and lasted longer than was compatible with a sincere desire and intention to deal fairly with Mexico in regard to the acquisition of Texas and if possible a part of California by the United States. After the recognition of the independence of Texas by the United States, negotiations were naturally entered upon for the settlement of the boundary between that country and the Louisiana territory by means of a new treaty. Ere long a treaty was signed by which the Sabine was named as the boundary, while provision was made for the actual running of the line by commissioners appointed on either side. The joint commission met at New Orleans on August 7, 1839. Their proceedings were scarcely harmonious, but their controversies have for the most part little importance today. In time they prosecuted their surveys to Red River; with the annexation of Texas to the United States, the western boundary of Louisiana ceased to be an international line.

J. B. MOORE.

The Place of the Reign of Edward II in English History. By T. F. TOUT. Manchester, at the University Press, 1914.—xvi, 421 pp.

The reign of Edward II is the period of English medieval history probably most neglected by students. The cause of this neglect is no doubt to be found in the absence of great leaders and causes; the struggles that fill the reign seem meaningless. Stubbs expresses the traditional view when he says that outside of the dramatic crises the period is "exceedingly dreary." "The absence of inspiring topics renders certain parts of the reign simply unreadable, . . . though there

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are plenty of records which are instructive enough and capable of a good deal of antiquarian illustration." Professor Tout believes that this view is wrong. The reign is not merely a transition from one great age to another; it possesses an interest of its own and is in some important ways a turning-point in English history.

The book is not a detailed narrative of the reign as a whole. It deals mainly with administrative history, but in the last two chapters the author passes in review various other aspects of the reign and suggests that a comprehensive study of all phases of the history of the time would cause a modification of the above-mentioned traditional view of the period.

Thus, at the close of the reign of Edward I, Professor Tout thinks that it was uncertain whether England would become a limited monarchy or an absolute monarchy of the type being set up by Philip the Fair. He finds the reason why England took the former path in the weakness of Edward II. In the art of war, "the reign witnessed the critical stages of the transition from the fashion of fighting under Edward I to the English military system of the Hundred Years' War." In ecclesiastical history, the period saw the establishment of the custom of papal appointments to English bishoprics. Under Edward II it was finally decided that Scotland was to have an independent development during the Middle Ages. As to France, the essential causes of the Hundred Years' War were already at work. In the economic field, every important feature of the English staple system was established before the death of Edward II. These conclusions are not all new, but assembled in this way and dissociated from the unpleasing personalities of the king and his barons, they give the reign a new character. One may dissent from some statements. That a strong successor of Edward I could have succeeded in establishing an absolute monarchy like that of the French kings seems to belittle the constitutional significance of the thirteenth century.

The central theme of the work is the administrative system and its relation to the political and constitutional history of the period. The two great departments of state, the exchequer and the chancery, had been long in existence at the accession of Edward II. They had traditions of their own which made them somewhat independent of the king; the baronage was able in a measure to control them, though the king still retained considerable control. Alongside of these bodies, engaged also in the work of administration, was another body, the royal household, which was completely under the king's control. Stubbs long ago pointed out that an important feature of the constitutional

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history of the fourteenth century was the struggle between the household, the *curiales*, and the baronage, for control of the administration. What he did not recognize, Professor Tout shows, is that the household was not a mere disorderly group, but contained within it an organized body of officials, the wardrobe, which gave direction and continuity to court policy. Thus before the accession of Edward II, the wardrobe was from the king's point of view a "third great department of government which had for him the supreme advantage of being entirely at his own disposal, and yet was quite as well manned, financed and organized as were the two great departments of state." Edward II revived and developed another court body of officials, the chamber, which like the wardrobe dealt with affairs of state as well as with the domestic economy of the court. These bodies formed the core of Edward II's administration, and it was with them that the baronage struggled for the control of the government.

Professor Tout's sketch of the reign shows the unity which the existence of these departments gives to the conflicts of the period. The strength of this court organization was what caused the failure of the Ordainers. The triumph of the Middle party in 1318 was made possible by the inclusion in that party of the chief men of the household. After the dissolution of the Middle party, the rise to power of the younger Despenser was due to the influence which he could exert over the chamber and the wardrobe.

Another feature of the reign which Professor Tout discusses in great detail is the reforms of the chamber and the wardrobe, the exchequer and the chancery. It is an interesting fact that these reforms were made by the officials of each department, in great part by the subordinate officials. They aimed to increase the efficiency of each department for transacting business. Though the results were not attained in full till the end of the century, the process began with Edward II. It is also noteworthy that this reforming movement led ultimately to the destruction of the political importance of the chamber and the wardrobe.

The last third of the volume is devoted to appendices. Professor Tout has printed the two York Ordinances of 1318 and 1323 which were drawn up for the reform of the household, and also numerous lists of officials. He thus furnishes future students with the foundation for a new detailed study of the reign to whose better understanding he has contributed so much in this stimulating and suggestive volume.

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An Economic History of Russia. By JAMES MAVOR. New York, E. P. Dutton and Company, 1914.—Two volumes: xxxii, 614; xxii, 630 pp.

Professor Mavor's work is even broader than its title indicates; in breadth of scope and up-to-dateness, in fact, it has no parallel even in the Russian language. In performing a task of such magnitude and difficulty, it is not surprising that the author has not succeeded in making an exhaustive study of all the economic phases of the subject; for example, the *mir* and commune and the *artel* question receive inadequate attention. Yet Professor Mavor has thrown considerable light on various sides of Russian history, and the work gains rather than loses from its breadth.

One must bear in mind that students of Russia encounter not only linguistic difficulties; they are confronted by a general inaccessibility of documents, a paucity of statistical data, a suppression of information in regard to certain periods and questions, and other similar hindrances due to the rigid censorship of the autocratic régime (*requiescat in pace*). Professor Mavor has succeeded in large measure in surmounting these difficulties; he has learned Russian, has spent considerable time in Russia, has diligently collected and studied unpublished or "illegally" published documents, reports and brochures, and as a result has accomplished a work which is greeted even by Russian scholars as one of unique importance.

The sub-title of the first volume is "The Rise and Fall of Bondage." The author goes back to the beginnings of the Russian state, and gives a masterful review of its history from the eighth century till the middle of the nineteenth. In this volume he has drawn largely upon the works of Kluchevsky, Sergey Soloviov, Semevsky, Kornilov, Tugan-Baranovsky, Kovalevsky, and other undisputed authorities; he has also made considerable use of ministerial reports and of statistical data furnished by various *zemstvos* and by such organizations as the Imperial Economic Society. Professor Mavor follows Kluchevsky's subdivisions of Russian history, adding to Kluchevsky's four periods a fifth, which deals with the years from the middle of the nineteenth century up to 1907, occupying the whole of Mavor's second volume. The first period, from the eighth century to the thirteenth, contains the history of Kiev-Russ, or the Dnieper-Russ, the era of the southern trading towns and of Byzantine influence. During the second period, from the first Tartar invasion to the middle of the fifteenth century, we witness the shifting of the center to the North, the development of the appanage

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system, the growth of agriculture on the Upper Volga, and the rise of the Moscow principality. The author treats interestingly the city republics and *vieche* (municipal assembly), one of the earliest units of self-government in Russia. In the third period, from the throwing off of the Tartar yoke to the seventeenth century, we see the consolidation of the principalities and free cities into a single czardom, the rise of a military class which is being endowed with large estates, and the beginnings of peasant bondage. Along with the growing autocracy of the Muscovite czars, the state still retains some vestiges of parliamentarism, in the form of *Zemsky Sobor* (popular assembly). The further unification of the state takes place during the fourth period; bureaucratic autocracy reaches its climax under the iron rule of Peter, who completely disables and "binds" the peasant. The author treats fully the reforms of Peter the Great, his military, commercial and industrial policy, and the effects of his activity on various classes of the nation. The second and third books of the first volume deal respectively with the conditions of agriculture and of industry under bondage. On the whole, this volume presents an epitome of what has been written by the best Russian authorities on the salient features of serf-holding Russia. One may question the advisability of treating at great length certain side-issues, for example, the inside work of various peasant committees officially appointed during the nineteenth century.

The breadth of the work is particularly evident in the second volume, which bears the sub-title of "Industry and Revolution." A large portion of this volume is devoted to the history of revolutionary movements and of various currents of thought among the *intelligentzia* which have a rather remote relationship with economics proper. The value of the second volume as a social history of Russia in the nineteenth century is inestimable. The recently-deceased Russian authority on socio-political questions, Semevsky, urged its translation into Russian. Its author has performed the singular service of giving a fair analysis of the Russian social movements, a subject which has been incompletely treated at home, owing to the censorship conditions, and has been presented in exaggerated forms by foreign observers. Professor Mavor possesses a knowledge of Russia's past and present that is shared by very few foreign writers on the subject, and he enjoys an important advantage over Russian writers—the clear perspective of an impartial observer. Few of us Russians, who have lived through the events of 1905–1906, are capable of analyzing those events *sine ira et studio*; this Professor Mavor succeeds in doing.

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He justifies the autocratic régime as an historical necessity:

While the growth of the autocratic power in Russia has been very gradual, and while that power had been greatly intensified in comparatively recent times, it is evident that at no period of its history could that power have been overthrown without violence. It is also evident that the autocracy owed its existence primarily to the numerousness of the races by which its seat of power was surrounded, and secondarily to the numerousness of the races over which it ruled. It has owed its historical justification to the circumstance that contemporary conditions made it appear as though only through the autocracy could the political unity of the heterogeneous groups be secured. So long as there was in progress the process of welding, for the most part by violent means, these different elements into a political whole, it was impossible to permit the controlled groups to share in the task of government; at all events it was impossible within the limits of the political insight of the autocratic rulers, or even of their contemporary critics, such as they were [vol. ii, p. 6].

But the autocracy has outlived itself. Since the middle of the eighteenth century there have been revolts and uprisings. Professor Mavor recounts them all quite fully, but he regards only the modern revolutionary movement as of import, because it is "coincident with the rise of capitalistic industry," and because it is more social than political. The last statement may appear surprising in view of the fact that since 1904 the demands of all revolutionary parties, from the Liberals to the Socialist-Revolutionists, have been primarily political; the popular cry has been: "Down with autocracy! For a constituent assembly!" But the author maintains that although the movement "has exhibited a tendency to 'pass over' into a political movement . . . no political change which was not accompanied by profound social readjustments would be likely to produce any serious effect."

Unlike some contemporary English writers, who have endeavored to champion the cause of the autocracy, Professor Mavor is on the side of progressive Russia. He knows the conditions too well to be hoodwinked by czaristic mystics, as has been the case with several credulous Britishers. As an impartial, keen observer he believes in the right and in the future of the new Russia. The book closes with the following prophetic statement: "The Duma, with all its defects, has become a school in which a new generation of competent rulers may be trained. Without some such school as this . . . it would be impossible for Russia to aim towards an effective democracy" (vol. ii, p. 599).

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Imperial Germany and the Industrial Revolution. By THORSTEIN VEBLEN. New York, The Macmillan Company, 1915.—324 pp.

This is a most suggestive work, the chief interest of which is only remotely connected with the title. It is full of Veblen's illuminating flashes, but many of his theories are based on alleged facts which require more substantiation than is furnished in his pages. And even the appreciative reader must admit that the author carries his sesquipedalian verbiage almost beyond endurance. Nevertheless the book contains ample recompense for the travail of reading it to the end, including fifty pages of supplementary notes, pregnant with suggestiveness although having only remote connection with the title-page.

The first hundred and fifty pages establish two facts: First, taken in the large, there is no sensible difference of race among the peoples of northwestern Europe and the British Isles. The corollary is that "in consequence of their hybrid composition, the individual members of these nationalities vary more widely in respect of their native capacities and aptitudes than would be the case of any pure bred people." The very true idea which the author might have elaborated is that Europe and the United States are composed, not of racial, but of national groups of ethnological similarity. Calling the enemy names is therefore reflecting upon one's own kin.

Second, one nation borrows a developed political or technological system from another without taking over all the stock of obsolete experiments still in use in the originating nation. Therefore, when united Germany took over the industrial system which was the product of a century of development in Great Britain, the German people did not borrow customs and characteristics which had developed along with this same industrial system. Veblen's familiar "conspicuous waste" is one of these "spiritual complements" of the British industrial system not taken over in Germany, where the art of spending money has developed only recently and independently. Indeed, it may be dated from about 1900. This phenomenon Veblen elaborates in his last chapter, perhaps the most suggestive in the book, entitled "The Net Gain." With his accustomed humor, he enumerates the advent of luxurious hotels, afternoon tea, the successful but confused enterpriser who appears at said afternoon tea in a tuxedo, and like phenomena. During the last few years before the great war the percentage of the "conspicuous wasters" in Germany who could not remember the time when they had not had a large surplus to spend, and who therefore took it as a matter of course, was increasing.

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One point Veblen does not bring out sufficiently. The industrial revolution came in England because that geographical area became united into a nation at an early date. This nationalization was brought about by a continuous line of strong Normans and Plantagenets. No such development occurred in Germany. Not until Napoleon's steam roller squashed many of her little kings and things, was there any hope of national union. Even then the two dynasties, the Hapsburgs and the Hohenzollerns, neutralized each other. Only with the predominance of the stronger line was a union possible, and only with political union was the industrial revolution possible in Germany. We know that technical efficiency was as much a characteristic of the Germans as of other Europeans, but the factory system could not replace the handicraft and custom system until after the numerous petty principalities, separated by tariff barriers, local pride, prejudice and jealousy, had been fused into one national state of sizable area. The factory system and large-scale production could not develop in Saxe-Weimar; for, as Adam Smith pointed out, the extent of the division of labor is dependent upon the size of the market.

Given political union, the necessary technological borrowing quickly followed, as Veblen shows. The ability to acquire mechanical, chemical and engineering knowledge was there, but in taking over the knowledge, it was not necessary to take with it the accumulation of junk peculiar to its early environment. To Veblen's thesis one may add another point. To guard against the obvious evils of the factory system shown by a century of development in England, Germany was able at once to inaugurate institutions such as social-industrial insurance, vocational education, sanitary housing, scientific taxation, unfair-practices legislation, and the extension of local municipal self-government, inaugurated in old Prussia by von Stein. Thus imperial Germany by developing later was able to select the good and reject the bad, and so to emerge superior to any of the older industrial nations in social economics.

It would be a graceless task to undertake to set right many misconceptions or misstatements of fact in this suggestive volume. Such an undertaking is the less necessary because in essence the book is concerned, not with Germany, but with theories of universal application. It requires Veblen's profound insight to dive below the foam at so many places and discover the direction and the causes of undercurrents.

R. S. MacElwee.

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Social Adaptation: A Study in the Development of the Doctrine of Adaptation as a Theory of Social Progress. By LUCIUS MOODY BRISTOL. With a preface by THOMAS NIXON CARVER. Cambridge, Harvard University Press, 1915.—xii, 356 pp.

Several years ago, when summarizing the status of sociological theory as it then existed, the present reviewer made the remark, "Sociologists no longer attempt to erect single principles into complete systems." This remark is still applicable to most of the younger sociologists but unfortunately not to all. Mr. Bristol tries to see all social processes and social theory from the point of view of adaptation. His purpose, he informs his readers, is "to discuss the social theories of the writers who have been most influential in the development of this doctrine of adaptation or whose contributions are most important in a constructive social philosophy built around this concept, and in an order which shall be so far as possible both historical and logical." In pursuing this aim, Mr. Bristol has attempted to classify summaries of the theories of some forty writers under the main heads "passive physical and physio-social adaptation," "passive spiritual adaptation," "active material adaptation" and "active spiritual adaptation." Apparently Mr. Bristol means by these terms to indicate the fact that the data of sociology can be regarded as either physical or psychic, and that man may be regarded either as adapting himself to physical and psychic conditions or as actively adapting such conditions to himself. This is logical enough. Such a set of categories, however, is not itself particularly well adapted for the classification of the leading doctrines and in many instances the complete systems of some forty writers. Its employment leads inevitably to one of two alternatives, either inadequate summaries of doctrines and systems or the inclusion of matter not strictly relevant to the doctrine of adaptation. Mr. Bristol has chosen the more useful if not the more logical alternative. He has produced excellent summaries and has added a number of keen criticisms of particular theories. In the treatment of some authors, of course, he has found no difficulty in showing the relevancy of their main doctrines to his own leading notion. In the treatment of others he has been forced to comfort himself with the thought that "a brief outline of their general social philosophy will be necessary as a background," and in reality has often been obliged to let the "background" stand entirely innocent of obvious or indicated relationship to his main theme.

In spite of these defects in the organization of his material, Mr. Bristol's book is a most excellent treatise in sociology. Particularly for

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speedy review of the chief doctrines of many of the most important writers in sociology—especially those who have written in the English language—it will be found admirable. Naturally it will not prove an adequate substitute for the reading of the sources themselves. Its summaries, however, are for the most part much more adequate and accurate than is usual in attempts of this sort. The book, moreover, presents many evidences of original thinking. Possibly the most interesting of these is the short paragraph on page 329 in which the author dissents from the view of Professor Carver—his master in most matters—concerning the ultimate basis of morality. Professor Carver has presented this view—elsewhere elaborated more fully—in the preface of the present volume. Briefly it is the doctrine that the moral code which works best, which fits the people who follow it to survive by making them strong and efficient, is *per se* the best moral code. "Whether we like it or not," says Professor Carver, "such people will rule the earth and crowd out of existence other people who follow different codes which make for less efficiency." To this doctrine, summarized in slightly different form, Bristol replies:

> In contrast we believe that the "Kingdom of God" will come by the spread, through reflective imitation, of the achievements of the groups setting the best example of social organization and collective welfare, and that the "gospel of social-personalism" working by purposeful idealization, innovation and exemplification will demonstrate its superiority over any form of deterministic monism or the gospel of the productive life as interpreted by Professor Carver.

To this Mr. Bristol might fittingly have added the further remark that the fundamental principle of Carver's philosophy, natural selection, has not yet eliminated the vermiform appendix, nor does it guarantee that two highly efficient civilizations may not destroy each other and leave the world in possession of those whose efficiency and therefore morality consists in a literal fulfilment of the command to multiply and replenish the earth. It may at least be contended that a code is not moral simply because it contributes to survival of the group that employs it, but rather because of its power to stimulate, among those who do survive anyway, such full development of the individual's original and native capacities as is not incompatible with the full development of the capacities of all. Man is not made for bread alone.

A. A. TENNEY.

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A History of Greek Economic Thought. By ALBERT AUGUSTUS TREVER. Chicago, University of Chicago Press, 1916.—162 pp.

This is a doctoral dissertation prepared in the University of Chicago under the direction of Professor Paul Shorey. It would be welcome if only as a new indication of the present trend of classical scholarship in this country from grammar to the subject-matter of Greek and Latin historical writings. There is still room for philological research; but if anything can save the study of Greek and Latin in our schools, it is work of the kind presented by this volume rather than continual harpings on the disciplinary value of these languages, however important that may be. Could it be made known that as a civilized being the ancient Greek is our equal, and in important respects our superior, from whom we have something to learn—not simply art and literature, but also more practical matters—a zest now lacking would be added to the study of his language.

The author has the advantage of an acquaintance with modern economics and economic theory in addition to his command of Greek. With this equipment he has examined the Hellenic writers from Homer and Hesiod to the late Roman period, necessarily with especial attention to the philosophers. Regarding Thucydides he makes this interesting remark:

> Roscher declares that the Greek historian contributed as much as any other writer to give him the elements of his science, since he alone of all Greek writers did not confuse his economic ideas with ethics. . . . In his description of the undeveloped condition of early Greece, which lived from hand to mouth, he writes like a modern economist describing primitive conditions in Europe in contrast to the capitalism of his own day.

In this connection the author briefly but severely criticises Cornford's *Thucydides Mythistoricus*, a work that has received far more favor than it deserves.

Among the many current misconceptions as to the views of the Greeks corrected by Dr. Trever, perhaps the most important is that of their attitude toward manual labor. The idea that it was held in contempt is due mainly to the fact that the chief writers touching upon the subject were moral philosophers like Plato, whose principal object was to protest against the growing commercialism of the age. Plato recognizes the necessity of mechanical work but considers its effect on character. He insists more than do most moderns on the differences between man and man in natural character, and adjusts his division of

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labor to this principle. In his ideal state there is no necessary place for slaves, although the enslavement of barbarians is not repudiated. In his *Laws* he accepts slavery as a necessity, and Aristotle advances farther in the same direction; but all writers of the age agree that slaves should be humanely treated. To Dr. Trever's exposition may be added the fact that down to the fourth century B. C., the advance of Greek democracy operated increasingly for the equalization of mankind. Then, after a period of stagnation in the movement, the degradation of the laboring class began; it continued, with the decline and extinction of democracy, throughout Hellenistic and Roman times, till the industrial class disappeared and most agriculturists became serfs. The economic view of labor entertained by fourth-century writers is the humanitarian view accepted by economists of today in contrast with the earlier modern theory which made the worker a mere machine (page 11). This is one of various instances in which recent advances are bringing us up to the Greek standpoint; and it induces the reflection that if our ancestors of a century or two ago had only cherished a truer and better appreciation of Greek achievement, present conditions might have been considerably better than they actually are.

Although in the minds of general economists there has been much confusion as to the extent of Greek industrial progress, this matter was correctly appraised by such workers in the Hellenic field as Francotte, and is now the common possession of students of Greek history. In states like Athens, industry was specialized, though not so highly as in modern times. A considerable capital was invested in manufacturing; yet, in the opinion of the reviewer, we should speak of shops, normally employing perhaps from twenty to thirty hands, rather than of factories in the modern sense. It is well known that the economy of Plato's time had long outgrown the family stage; but it remains true that many a well-to-do household, like that described in Xenophon's *Economicus*, was a manufacturing plant, which produced nearly everything necessary for the family, and in addition a surplus for the market. Inevitably this condition acted along with other causes to check the growth of factories. Among the various forces in operation for limiting capitalism in industry and commerce, the reviewer suggests that perhaps the most effective was the commandment to moderation which Hellenic society imposed upon its members. This may well be regarded as the chief reason why the Greek inventive genius, so far as it was allowed to develop, directed its attention to the creation of mechanical toys rather than of labor-saving machines. It was not so much that labor was contaminated by slavery and therefore despised, as that the

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amassing of a fortune put the wealthy individual out of joint with his less successful fellows.

It is common knowledge that the economic views of the philosophers were subject to their ethical principles. Necessarily money, loans and interest were thus regarded. Plato defines money as "a token of exchange." Having no appreciation of its productive functions as representative capital, he takes an unfavorable view of loans on interest. In this respect, as in many others, Plato is at variance with the majority of the Athenians, who lent money on interest without a qualm of conscience. The private orations of the fourth century are evidence of this fact, yet occasionally we find an orator, in the spirit of the philosophers, protesting against usury. It was probably the Spartan use of iron money that led Plato to the idea that for domestic trade a fiat medium of exchange would be as good as any other, whereas foreign commerce demanded a currency of intrinsic value. Aristotle treats of the origin and use of money more extensively than Plato, and with such soundness that most of his doctrine is acceptable to the modern economist; but his theory is marred by the anti-commercial prejudice common to the Socratic philosophers.

These are but examples of the topics presented by the volume. There is much in it to praise and little to criticize. The author's estimate of Pöhlmann's *Geschichte der sozialen Frage und des Socialismus in der antiken Welt* is decidedly too favorable. The part of this work relating to Hellas is a compendium of ill-founded grumblings—of all the chance slanders on democracy uttered by various classes of disgruntled persons from Plato down. If the sociologist of today should cull from the most blatant partizan newspapers and from the utterances of the extremest cynics all the vile misrepresentations of opposing candidates and parties and party principles, he could with this material produce a condemnation of the American political system as thorough and as monumental as the work of Pöhlmann. For the *morbus Pöhlmannianus* there are plenty of antidotes.

In excluding Hesiod from the classical group of writers the author is perpetuating an unnecessary and misleading use of the word classical. Why should we exclude Hesiod and Homer from the honored roll merely because they are early, and include such insignificant writers, for example, as Timocreon of Rhodes and Stesimbrotus of Thasos simply because they chance to be contemporaries of Aeschylus and Sophocles? Assuming that he is himself a "classicist," the author claims to write from the point of view of such a being and for people of his group. As a matter of fact the present work is valuable because

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the author is broader and better than a classicist. It would be well to do away with the term, unless we are also to have Slavists, Teutonists, Chinists etc. Mr. Trever's work is too sound, and will be too widely useful, to be tabooed as classicist. He has promised a work on Greek economy. There are plenty of studies of particular subjects in the field but no comprehensive treatment known to the reviewer, and nothing whatever in English. Such a work is needed, and Dr. Trever is competent to prepare it.

GEORGE WILLIS BOTSFORD.

La Crise de la Rêpublique. J.-L. DE LANESSAN. Paris, Félix Alcan, 1914.—vii, 342 pp.

France Herself Again. By ERNEST DIMNET. New York, G. P. Putnam's Sons, 1914.—xxx, 399 pp.

It is sometimes said of Bodley and Lowell that simply because French government functioned differently from English or American government they considered its functioning defective. They are accused of rendering superficial judgments (as in the matter of cabinet instability) on the basis of standards familiar to them at home. In reality their criticisms were derived from French sources and have been largely justified by the experience of the last twenty years. M. de Lanessan, writing before the outbreak of the war, is still more critical. His views cannot be brushed aside as merely those of a pessimistic individual; indeed their importance depends upon the fact that they reflect a prevalent attitude among the most distinguished French publicists. Nor is he one of those reactionaries whose business it is to deride and discredit republican institutions. He is a disciple of Waldeck-Rousseau, under whom he served as minister of marine. His attitude toward the church is very much that of Aristide Briand—a full acceptance of the existing anti-clerical legislation and at the same time a belief that in the hour of victory the vanquished should be treated in a generous and conciliatory spirit. Aside from his political career, he is a scientist and an author of reputation, having written some twenty volumes on such diverse subjects as religion, colonization, Chinese philosophy, botany, and the problems of national defense.

The crisis which he describes is involved in the perversion of the parliamentary system, the substitution of legislative for executive power. The chambers, instead of responding to leadership, have reduced the ministers to vassalage and undertaken to govern France according to the Jacobin tradition. The absence of responsible authority

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has led to administrative anarchy, financial disorder, and many other evils. "The Third Republic has come to a phase of its evolution where it must adopt a new orientation or succumb, as all the preceding régimes of the last century have succumbed, because of the lack of suppleness." Unless brought into harmony with the spirit of the nation, it will be "poisoned by the vices which are devouring all its organs." Sound government, M. de Lanessan says over and over again, requires the existence of two major parties of fairly equal strength. Such a situation obtained in France while the monarchists were strong enough to form an effective opposition; but as resistance to the republic gradually collapsed, the Republican party disintegrated into groups and sub-groups which soon lost anything in the shape of real programs and retained only their ambitions and their appetites. The prime minister, relying upon a temporary alliance of groups rather than upon definite policies, constitutes the alliance by the skilful distribution of portfolios; and the ministers, as mere delegates of the groups, are jealously watched and are always open to the charge of treason. In view of this situation, the number of groups tends to increase; every deputy of mark hastens to form a new group and thus render himself, as the phrase goes, *ministrable*.

M. de Lanessan cites chapter and verse in support of his contentions. He discusses, for example, the disclosures made in the senate when the budget of 1914 was being debated. It was then shown that the cabinets of the previous ten years, unable to control the individual deputies and prevent the pillaging of the treasury, had resorted to all sorts of expedients and rendered deceptive financial statements in order to conceal what was taking place. "To sum up, we have no budget because we have no government and we have no government because our parliamentary system does not possess the great parties which are indispensable to its proper functioning." M. de Lanessan examines the attitude which the various groups have taken toward the issues of the election of 1914 (military service, electoral reform and the income tax), and he concludes that, even with the sacrifice of the famous minimum program of the Radical-Socialists, a government of the extreme left has become impossible. The cleavage within the ranks of the Radical-Socialist party has not been affected by the "unification" of the party in 1913. After the elections of the following year, leaders of the left wing spoke of an alliance with the Unified Socialists as an "imperious necessity," while Léon Bourgeois, representing the right wing, demanded a policy of conciliation and a majority which would exclude the Republican Federation (Progressists) on the right and the

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Unified Socialists on the left. Because of this cleavage the Ribot-Bourgeois cabinet was driven from office as soon as it faced the chambers. M. de Lanessan believes that in future the groups cannot form the basis of any government worthy of the name. "No ministry which does not have a program at once very definite and very homogeneous will be durable. . . . I believe that France is in such a state of moral discomfiture that there would be grave danger in neglecting to show in the clearest fashion the direction in which the government wishes to lead her." In fact, notwithstanding the multiplicity of groups, the way lies open to the development of two large parties—the party of force and the party of liberty. To unite the liberal elements nothing is needed now but resolute leadership and a definite program. Aristide Briand and Louis Barthou, two politicians who stand very close to the president, made a beginning in the spring of 1914 when they organized the Federation of the Left. In the last hundred pages of his book M. de Lanessan seeks to formulate a comprehensive and detailed platform which he thinks the great mass of liberals would accept.

First of all he wishes to impose limitations upon parliament, which, under the control of the radicals, has become a collective despotism and destroyed civil liberty. There must be a court, like the American Supreme Court, to enforce certain great principles of private rights such as those proclaimed by the Revolution. "Right must be placed above the law. No law, for example, should invade the natural right by virtue of which every citizen may practise and teach freely his religion or his philosophical ideas." The powers of parliament and the ministers would be farther reduced by a sweeping measure of decentralization, thirty great "regions" taking the place of the departments and determining all matters of local concern. Since the deputies are mainly occupied with overthrowing cabinets in order to secure places for themselves, the ministers should henceforth be chosen from outside parliament, the only exceptions being the ministers of the interior, justice, and foreign affairs, one of whom should be prime minister. The scope of the president's authority should be extended, not by any change in the constitution, but by an abandonment of the political custom which has made him hitherto, in the phrase of Marcel Sembat, a mere "hole at the top." Eventually the constitution should be amended so as to provide a new method of choosing the president. M. de Lanessan also advocates reforms in taxation and in budget procedure, the systematic development of internal resources and means of transportation, a more conservative attitude toward social reform, the abolition of government monopolies, a civil-service law

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which would free the permanent officials from political influences, and an improvement in the personnel of the chamber of deputies by means of proportional representation. If some of these proposals are open to no serious objection, others seem quite beyond the range of practical politics. It is not quite clear how a court, erected by statute, would dare to override an act of parliament because it conflicted with some vague principle of the Declaration of Rights, or how the president could assume effective command of the army and navy, as M. de Lanessan suggests, without compromising the whole system of ministerial responsibility. Moreover, according to his own thesis, the abuses which he describes would disappear with the formation of strong parties; the checks and balances would no longer be necessary when once the Liberal party had become strong enough to impose them.

The election of President Poincaré has been regarded as significant of a new tendency in French political life. It seemed to mark the disintegration of the Radical-Socialist party which had dominated the government for ten years or more. The Radical-Socialists offered bitter opposition to his candidacy. They feared him as a man of strong character and positive ideas who had resolutely opposed their most cherished policies, especially in the matter of national defense. In the national assembly they greeted his election with cries of "Down with the dictator! Down with the nominee of the Right!" They understood that the issue raised between the Radical-Socialist Pams and the moderate Poincaré at Versailles was part of a larger conflict which threatened to drive them permanently from the seats of power.

France was at that time passing through something like a transformation; and M. Dimnet seeks to explain the nature of the change. He believes that decadent influences, which had begun to assert themselves under the Second Empire, culminated in the years 1898–1905. In the latter period "a sort of destructive folly possesses the politicians; they wildly go to work, and what they do is nothing short of the sackage of France in the name of reason and justice." But in 1905, just when this destructive spirit was at its height, the nation had to face a sudden crisis.

The Tangier affair was a flash of lightning, after which the clouds lifted. It was one of those events which rapidly destroy a whole system of thought or, at any rate, throw into the shade the protagonists who only a short time before seemed to hold the field, meanwhile liberating another system until then unnoticed or disregarded. What has been called the regeneration of France dated from that shock.

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In presenting his views M. Dimnet examines a wide range of phenomena, political, literary, educational, moral. His exposition is brilliant, but prejudiced. His scathing indictment of Emile Combes completely ignores the clerical and military intrigues which provoked reprisals; in discussing the Dreyfus case he does not disguise his sympathy with the army and with the church. He condemns the passive attitude shown by President Poincaré at certain critical junctures, notably after the fall of the Barthou cabinet, and observes that "he will never be again, unless he should make a *coup d'état*, the representative of that generous spirit which uplifted France and gathered every energy around him when he was prime minister." M. Dimnet demands strong government. But it would be a mistake to classify as a reactionary a man who considers Alexandre Millerand "by far the clearest head and the strongest hand this country has known since 1870, outside the army."

M. Dimnet emphasizes as one of the aspects of "Combism" its pacifistic spirit. During those three years of Combes (1902–1905) the socialists controlled the cabinet, although not one of them held office in it; Jaurès was the real master, because socialist votes kept the cabinet in office. This will explain why on official occasions Combes allowed the red flag to be displayed and the Internationale to displace the Marseillaise. It was indeed a time when the cult of internationalism had many devotees outside the Socialist party. Never had belief in the fraternity of nations been more general. Patriotism was derided, even in class-rooms, extremists maintaining that the absorption of France by another state would be no calamity at all. "War appeared as a barbarous impossibility, and the chief preoccupation of the ministers of war and marine was to civilize the army and navy, turn ships and barracks into institutions for the civic perfection of young Frenchmen, and, in short, prepare the world for universal peace." While the officers instructed their men how to raise pigeons or bees, the frontier defenses were neglected. Military service was reduced to two years. It was very much the same with the navy under the administration of the journalist, Camille Pelletan. He "had ideas of his own concerning the composition of the fleet; their chief result was the passage of the naval power of France from the second rank to the fourth. He did not believe more than André in the possibility of war, and the navy magazines were as empty as those of the army."

This was the situation when in 1905 the Kaiser landed at Tangier, causing the citizens of France suddenly to realize that their dream of internationalism had been an illusion.

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From high to low the French felt that they were threatened with a foreign domination, and the most unbearable foreign domination they could imagine; it was enough to revive in them the passionate interest in their state which used to possess their ancestors, the ennobling consciousness of participating in its defense, if not in its government. In truth it is on the memory of those moments that France has lived ever since, and her fountain of new energy rose when she realized the significance of the Kaiser's demonstration in Morocco. . . . The universal feeling was the consciousness of an immense absurdity. Pacificism had been a ridiculous farce. Because modern people, too nervous to think of blood, had chosen to think of commerce and money instead; because a few dozen socialists in France and Germany had bragged that no fratricidal duel would henceforward be suffered where they had a word to say; because M. Léon Bourgeois had been admired at a Congress of Peace, and M. d'Estournelles de Constant meditated writing a crushing letter to the first monarch who should call his people to the flag, war had been regarded as an impossibility. But war at present was near at hand all the same. It mattered little that France had not wished for it, never given a thought to it—there it was.

The immediate consequence was a revival of the military spirit. "The yearly maneuvers, which reservists had formerly been glad to shirk, were accepted as treats. The officers who commanded those of 1905 are unanimous in their statements that the men were as different from themselves as if twenty years had intervened." Political indifference diminished. The country, manifesting a desire for more effective leadership, regarded with satisfaction the gradual shifting of the basis of authority from the chambers to the prime minister.

The indisputable fact is that since the Tangier affair France has constantly been in search of a man—to such an extent that successive disappointments have only made her longing more acute . . . On the whole M. Clemenceau, who had never acknowledged any authority, showed himself the most authoritative of prime ministers, and, in spite of all that in his already long life had been known against him, the country loved him for it.

Then came Briand, Poincaré, and Barthou. "These three men were looked upon as rescuers. . . . At various periods of their governments they had to speak up, show the strong hand, and on the whole make the enemies of order realize that they felt the country on their side against anarchy, and would act in consequence." M. Dimnet, after developing these considerations at some length, notices other aspects of the renaissance, above all the rapid diffusion of a new mentality which set its mark upon literature and upon theories of education.

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As for the future, M. Dimnet notes "the existence in the national atmosphere of a longing, a sort of Messianic expectation of a better state of affairs." There is hope that the pressure of opinion will be sufficient to bring about, "slowly or forcibly, through persuasion or through *coup d'état*, a modification of the constitutional laws limiting the powers of the Senate and Chamber and giving sufficient elbow-room to the government to make its name something better than a mockery and its responsibility a reality rather than a word." He very kindly furnishes a recipe for the *coup d'état*. He explains how the parliamentary sessions should be suspended, how a dozen members (including Clemenceau and Caillaux) should be arrested, and how the operation would be "wonderfully easy" if certain men were appointed to the portfolios of war and the interior, and to the prefecture of police.

> Who are the people against whom this violent operation would be conducted? Ask anybody living in France; his embarrassment will show you at once that the tyrant one would have to get rid of is not very formidable . . . The more one thinks over these possibilities the more one sees that the rampart between a dictator and his success is neither public opinion, nor any strongly organized or sufficiently popular party, but a Senate and Chamber so divided and weak, so impregnated themselves with the belief in a change, that resistance on their part would practically be impossible. To sum up in one brief formula, both the tyrant of France and her possible liberator are anonymous, but the tyrant is a cardboard giant who has long ceased to be a scarecrow, while the liberator is a living hope.

Unhappily, while a *coup d'état* never seemed more advisable, the men who could accomplish it are not disposed to act. "What is the good or even the interest," M. Dimnet despondently concludes, "when everything indicates that it will not take place?" However, if the specific cannot be applied, recourse may be had to palliatives; and M. Dimnet endorses the proposals which Charles Benoist laid before the country in the elections of 1914: the president to be invested with independent authority, the ministers to be chosen from outside parliament, the existing electoral system to be supplanted by proportional representation, and the power of the national government to be reduced by a measure of decentralization. These would be the first steps; but ultimately the country should be relieved from the incubus of "the legal anarchy known as the constitution of 1875."

E. M. Sait.

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The Philosophy of Nietzsche. By A. WOLF. London, Constable and Company Limited, 1915.—116 pp.

Dr. Wolf's slender volume contains the substance of a series of lectures given at the University of London in February 1915. Its very title suggests a method of treatment that differs greatly from the usual way of writing about the author of *Thus spake Zarathustra*. And whoever thinks of Nietzsche mainly as a writer of diabolical aphorisms about War, Women and the Blond Beast will be sorely disappointed by Dr. Wolf's unsensational and thorough-going analysis of the chief elements of his philosophy. Contrary to custom, Dr. Wolf bases his argument not on the marvelous though oftentimes bewildering poetry of *Zarathustra*, but mostly on the solid prose works, with pronounced predilection for *The Will to Power*.

Dr. Wolf abstains from giving any account of Nietzsche's life and personality. The only concession he makes to popular pre-occupations is the insertion of an introductory chapter on "Nietzsche and the War." He deserves credit for having proved once for all by documentary evidence, that the all-too-familiar picture of the militaristic villain Nietzsche is "a work of creative imagination, unrestrained by knowledge" (page 9). He demonstrates the absurdity of coupling Nietzsche's name with those of Bernhardi and Treitschke, by quoting from Nietzsche's scathing arraignment of the Treitschkean type of "national and political lunacy" (page 11). He emphasizes Nietzsche's own political and cultural ideal of the broad-minded "good European" (page 12); his opposition to the doctrine of "armed peace" (page 18); his proposal of a "gradual reduction of armaments" as far back as 1879 (page 15); his fervent anticipation of a "European league of nations" (page 16). Over against this, Dr. Wolf maintains the purely poetical nature of certain dicta from *Zarathustra*, which smack of swashbuckling militarism, and have of late gained so much notoriety through Nietzsche's would-be disciple Bernhardi. Many of Nietzsche's most bellicose utterances do not at all refer to the war of battlefields. "When Nietzsche speaks of 'War,' he means the interplay of cosmic forces, or the struggle of ideas, or opposition to oppressive conventions, or the struggle with one's own passions and impulses to secure self-mastery" (page 20). However, Nietzsche was not a pacifist pure and simple; and Dr. Wolf slightly exaggerates when he declares that "his political views remind one of the peace societies and of the Society of Friends rather than of Bernhardi and Treitschke" (page 17).

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The central part of the book undertakes to reveal the basic impulses and ideas of Nietzsche's philosophy. Dr. Wolf recognizes that the fundamental ethical motive of Nietzsche's doctrine has something in common with the cry of "return to nature" that has been so often heard, from the Stoa to Rousseau and Tolstoy. But Nietzsche is not satisfied with merely propagating a new morality as a preacher; he is resolved to "discover and *establish* new values for life" as a philosopher. Dr. Wolf aptly points out that Nietzsche, as early as 1873, took David Friedrich Strauss severely to task for constructing his ethics quite independently of the question, "What is our conception of the universe?" (page 37).

This intimate connection between metaphysics and ethics, indispensable though it be for a just appreciation of Nietzsche's "revaluation of all values," has received but scant attention among the earlier critics of Nietzsche. It is for this reason that the two chapters on Nietzsche's theory of knowledge and of the universe constitute the most valuable part of Dr. Wolf's book. They add to our information about the essential coherence of Nietzsche's teachings. Dr. Wolf does not fail to observe that Nietzsche, in important points of his theory of knowledge, anticipates the pragmatist view. Nietzsche emphasized the "man-made" character of our "truths" in much the same spirit as William James. "The human mind, in short, may only be an instrument of power, that is, of life, and not an instrument for the discovery of 'truth'" (page 49). Dr. Wolf is not the only writer who has noticed the curious similarity of representative thinkers of modern Germany and America in certain tendencies of epistemology. The most circumstantial account of these similarities (which are not due to any direct influence of one philosopher on the other) was given in 1913 by R. Müller-Freienfels in his essay on "Nietzsche und der Pragmatismus" (*Archiv für Geschichte der Philosophie*, volume xxxvi).

Nietzsche's cosmology is rooted, according to Dr. Wolf, in Schopenhauer's doctrine of "Will" as the essence of reality, in the theory of evolution, and in a misinterpretation of the principle of the conservation of energy. "Will to Power," a "creative will" resulting in continual change, is to Nietzsche the essence of the cosmic process (page 65). The universe, to Nietzsche, is a finite quantity of energy, occupying a finite space, but infinite in its duration (page 67). The doctrine of the world's eternal recurrence is the ultimate conclusion reached from such premises (page 68). Dr. Wolf attributes perhaps too much importance to Nietzsche's casual references to the possible conception of a "becoming God who is identical with the universe at each culminat-

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ing stage of its development in the infinite course of its eternal recurrence" (page 73). But he demonstrates with admirable insight how Nietzsche's tragic conception of an apparently chaotic and godless universe, far from turning to a numb pessimism, actually heightened his conception of human life and destiny, and helped to formulate his ethical idea of a "full, heroic life."

Only the last chapter of the book is given to a discussion of the most familiar though often misunderstood parts of Nietzsche's philosophy, his views on human life and conduct. Here again, Dr. Wolf's painstaking and circumspect interpretation succeeds in exposing certain popular misapprehensions through which Nietzsche's name has come into disrepute. He takes the sting out of the offensive distinction between master morality and slave morality by reducing it to a simple recognition of a natural "order of rank" among men, which makes it impossible to apply the same code of conduct to all alike (page 93). And the ethical ideal of the superman is far from being "the horrible vision of a supermaniac" (page 77); "it is not a soft option, but a severe discipline" (page 113). "The conception of a full, courageous, and spontaneous individuality has a message for everybody of intelligence and spirit" (page 113).

Dr. Wolf finally pleads that the gospel of the superman has touched a sympathetic chord even among democrats.

> It is the inmost and growing purpose of democracy not that all men be alike, but that all alike should have an opportunity of cultivating each his own individuality according to the measure of his endowment. And that purpose is after Nietzsche's own heart. . . . The spirit of modern democracy and the spirit of Nietzsche's philosophy are not so opposed as is often asserted. Nor do his views on the future of mankind and their international relations contain anything but what may be regarded as a consummation devoutly to be wished [page 114].

This somewhat hasty endeavor to enlist Nietzsche in the cause of "democracy" is not quite unwarranted, surprising as it seems. As early as 1910 Professor Hammacher worked out an ingenious theoretical synthesis of Nietzsche's aristocratic individualism and the altruistic motives which underlie the modern social welfare movement ("Nietzsche und die soziale Frage," in *Archiv für Sozialwissenschaft* volume xxxi). Hammacher comes to the conclusion that a highly socialized state of society is the *sine qua non* for the realization of Nietzsche's individualistic ideals. There can be no doubt that notwithstanding Nietzsche's personal enmity to democracy and socialism,

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the actual effect of his teachings on the German nation has been to stir up a new impulse toward individual development even among the working classes. A recent publication of A. Levenstein, *Nietzsche im Urteil der Arbeiterklasse* (Leipzig, 1914), gives documentary evidence for this much overlooked practical outgrowth of Nietzsche's philosophy. Thus, Dr. Wolf's concluding remarks are not so paradoxical or fantastic as might appear at first glance.

On the whole Dr. Wolf's book commends itself not only by its scholarly method and the judicious treatment of its subject; a skilful arrangement of the material, together with a remarkable facility in presenting difficult problems in a lucid and interesting manner, contributes to render the little volume especially useful for any one who desires to get a concise summary of the problems connected with the philosophy of Nietzsche.

TRAUGOTT BÖHME.

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The Prevention and Control of Monopolies. By W. JETHRO BROWN. New York, E. P. Dutton and Company, 1915.—xix, 198 pp.

This volume discusses the problems of monopoly with reference to Australian conditions. While paying considerable attention to American writings, the author keeps the reader on his guard against drawing general conclusions from special American experience, and indicates what differences in policy the Australian situation may demand. This fact makes the book a suggestive one for American readers. It shows that American experience is not final, and it also points out aspects of our situation which, not being salient and unmistakable, have been neglected. The author discusses a wide range of topics, including syndicalism as a remedy for private monopoly, the limitation of size, publicity, supervision of competition, nationalization, public competition, limitation of profits, control of prices, the New South Wales Gas Act of 1912, and the treatment of the Australian sugar industry. Covering so much in such small compass, the treatment cannot be exhaustive, and it has the merits and the limitations of a somewhat informal discussion. The interest increases in the latter part of the book as the author passes from general to specific topics and to a more first-hand discussion of detailed questions.

So far as the book has a general thesis, it is that no one remedy by itself is adequate, but that each has a useful place, and that a system should be above all things adaptable, giving ear to the interests as

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they find themselves affected rather than to predetermined formulae of justice. The limitation of size is not practicable, save perhaps in countries as large as the United States, where the limitation might be made liberal enough to make possible in a satisfactory degree the efficiency of large-scale production. Publicity and the control of competitive methods will both be of considerable service. As for monopolies which cannot be prevented by these measures, circumstances must dictate in each case whether the policy to be followed shall be one of public ownership or public control of prices. In general, the author looks favorably on the control of prices, either by methods which give the monopoly a chance to increase its profits by cheapening production, or by a system of boards similar to the familiar wage boards, giving representation to all the substantial interests involved, including those of the producers of raw material.

Among the questions dealt with are sliding scales of profits and prices, customs duties which vary with the price of the article abroad, and the need of a special stimulus to white settlement of the hot regions of Australia for racial rather than economic reasons, the purpose being to avert a possible assertion of "manifest destiny" by the brown and yellow races.

The practical difficulties of the proposed plans are recognized, but are treated somewhat lightly. Standards of valuation and of fair return, and methods of estimating prices abroad seem to be regarded as matters of administrative method rather than of fundamental principle. The work of the American Interstate Commerce Commission is cited as an example of successful achievement. To an American it may appear (so far as the regulation of the general level of rates is concerned) to be tentative. It seems to have revealed the difficulties of the undertaking rather than to have solved them.

The reader may feel that some of Mr. Brown's suggestions have much the same kind of value, suggesting lines of inquiry which one would like to carry further. If co-operation between competitors may be a much needed help toward the maintenance of competition (as seems undoubtedly to be the case) what kind of co-operation may there be, how far may it be carried, and on what principle may limits be fixed? If the use of representative boards can supply something to make up for the lack of definite objective standards in price fixing, just what can it supply and in what direction will the results of such an elastic system evolve? No mere book can tell us these things; they are matters that must be worked out by the painful process of social experimentation.

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BOOK NOTES

One of the most interesting results of the present war is the attention devoted by economists in every country, not only to the economic aspects of the war itself, but to a consideration of the economics of war in general. An ambitious attempt to carry out this idea has been made by Dr. Ferdinand Schmid, of Leipzig, in his *Kriegswirtschaftslehre* (Leipzig, Veit and Company, 1915; 150 pp.). He deals with the economic aspects of the army, with fiscal and banking policy during the war, and more especially with the general economic policy so far as it concerns change of production, of commerce and of consumption. More important than this is the conviction of the author that no matter how this war ends, the world has great conflicts in store in the future, and that it is unwise for science to be caught unprepared. Whatever may be our hopes for universal peace, the cold-blooded and scientific consideration of the problem must impel us, according to Dr. Schmid, to the conclusion, not only that economic preparedness is as important as military preparedness, but that the science of economics, which has hitherto been devoted to working out the laws of peaceful intercourse, must consider the modifications necessarily to be brought about by the prolonged wars of the future. Finally, he gives an expression of the view recently made familiar by French and English writers as well, that the great extension of co-operative and governmental economic activity during the war will, in all probability, have a permanent effect in its reaction against the individualism of the nineteenth century.

The subject of what the author calls the demographic aspect of war is broached by Dr. L. Hersch, of the University of Geneva, in a pamphlet entitled *La mortalité chez les neutres en temps de guerre* (Geneva and Basle, Georg et Compagnie; Paris, M. Giard et E. Brière, 1915; 36 pp.). While the strategy and tactics, the mathematics, mechanics and chemistry of war, have been elaborately studied, the author finds that scarcely any attempt has been made systematically to investigate its effects on mortality, marriage and the birth rate. Such an investigation he has undertaken to make. The present paper announces this fact, and indicates the lines of inquiry which he intends to pursue. It contains a certain amount of matter and some statistical tables relating to the effect of certain recent European conflicts on the population of neighboring neutral countries, but the materials exhibited are scarcely comprehensive enough to justify any sweeping conclusions.

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One aspect of the newer economics of war to which attention has been called in a preceding paragraph, reviewing the work of Dr. Schmid, is well represented in England by the volume published by the Fabian Society and edited by Sidney Webb, entitled *How to Pay for War, being Ideas offered to the Chancellor of the Exchequer by the Fabian Research Department* (London, Allen and Unwin, n. d. [1916]; xiii, 278 pp.). The book is the joint production of seven authors who think that it will be virtually impossible for England to pay for the war by any re-arrangement of the system of taxation. The authors, therefore, while advocating a great increase in the rates of the income tax as well as a new tax of ten per cent on the value of all private capital existing in Great Britain, put their emphasis upon a utilization of the coal supply and of the insurance business, together with a revolution in the fiscal management of the post office, and the government operation of the entire railway and canal business on the principle of profit. It is interesting to compare these views with the suggestions of Naumann in his remarkable book, *Mittel-Europa*, that the government of Germany in order to pay for the war is destined to become a partner in virtually all productive enterprises.

The definitive economic and financial history of the war can, of course, be written only some time after the end of the gigantic struggle, but in the interval it is interesting to have authoritative accounts of such facts as can be gleaned from ordinary government documents. M. Georges Lachapelle has attempted this for France in *Nos Finances pendant la Guerre* (Paris, Armand Colin, 1915; vi, 306 pp.). In a series of well written chapters he treats successively of the budget, the moratorium, and the banking and credit conditions from the outbreak of the war to the close of 1915. As is perhaps excusable under the circumstances, M. Lachapelle is appreciative rather than critical, although in closing he does not hesitate to point out that the sacrifices that will still have to be made by France are exceedingly heavy.

Professor Jèze in his treatment of the English policy in *Les Finances de Guerre de l' Angleterre* (Paris, M. Giard et E. Brière, 1915; 248 pp.) finds still less to criticize. He makes much use of the speeches of the chancellors of the exchequer. His discussion is continued in the recent and current numbers of the fiscal review which he edits, and will probably appear as a large volume at the close of the war.

Had the author not been professor of natural religion, moral philosophy and civil polity at Harvard University, one might hastily assume that *War and Insurance* (New York, The Macmillan Company, 1914; xlviii, 96 pp.) by the late Josiah Royce, was in the nature of a legal

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treatise. But this would be a grave error. The author desires, as so many other persons just now do, to establish some security against the recurrence of wars. For this purpose he proposes a new device. While he thinks it difficult to find, in delicate and controversial matters, a trustworthy politician, diplomat or ruler, or even an unprejudiced arbitrator or judge, it is, he says, "much easier to find, under suitable social conditions, a faithful and enlightened and fair-minded trustee." He would therefore have nations form an organization for the mutual insurance of members against any kind of disasters, such as earthquakes and volcanic eruptions, pestilences, destructive storms, crop failures and famines, marine disasters, and the destruction in war of the private property of citizens of neutral states; and to this end he would create by national contributions a vast and well-secured fund to be administered by trustees without political powers or obligations. When we consider the remote and negligible relationship of the things specifically proposed to be insured against to the national ambitions, rivalries and hatreds that engender wars, it may be doubted whether the device thus outlined will help nations avoid the passionate struggles for supremacy or revenge that have characterized human history.

War Obviated by an International Police (The Hague, Martinus Nijhoff, 1915; iv, 223 pp.) is a reprint of essays written in various countries. C. Van Hollenhoven, of the University of Leyden (Holland), places little reliance upon plans of arbitration, "often original, though not always mature," that come chiefly from America, but thinks the enforcement of definite rights by an international police would be feasible, if based on the principle that "every state would have to place practically its entire fighting force at the disposal of the international tribunal." At the same time he cannot conceal a certain feeling of apprehension as to the possibly overmastering influence of the Great Powers. The discussion is continued by other Dutch writers. Quotations are made from articles or addresses by Rafael Erich, of the University of Helsingfors, Finland; Theodore Roosevelt; Commander T. W. Kinkaid and Admiral Goodrich, of the United States navy; Nicholas Murray Butler and Andrew Carnegie; Alfred H. Fried, of Austria; Léon Bourgeois of France; Walther Schuecking, of the University of Marburg, Germany; while England is represented by T. J. Lawrence, Norman Angell and Sir Edward Grey. While these essays recognize a principle which is open to no objection if practicable, they do not seem to have been designed to offer a tangible solution of the actual difficulties that stand in the way, the chief of which is in effect the creation of an instrument or organ of world-government.

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Under the title *Histoire de la Triple Alliance* (Paris, M. Giard et E. Brière, 1915; viii, 370 pp.), the public is furnished with a French translation of the German text of Arthur Singer's volume of 1914, which appeared prior to the present European war, on the late alliance between Austria, Germany and Italy, as well as a supplementary discussion by Hans F. Helmolt of the same subject. The translator is M. Louis Suret. Although the publishers of the French version take special pains to emphasize the fact that the work is of German origin, yet they recognize its merits and the industry with which the authors have collected their materials, gleaned chiefly from the utterances of statesmen, and articles in the press in the three lately allied countries. While the text of the alliance of October 7, 1879, between Austria and Germany—a document of fundamental character—was published in 1888, the text of the triple alliance, like that of the dual alliance (France and Russia) and the terms of the "triple entente" (France, Great Britain and Russia), remained unpublished. Hence the importance of the piece-work done in the present volume.

The Carnegie Endowment for International Peace publishes four reprints, as follows: *An International Court of Justice* (New York, Oxford University Press, 1916; ix, 108 pp.), containing a letter and memorandum of January 12, 1914, to the Netherlands Minister of Foreign Affairs, by James Brown Scott, and certain other documents, in advocacy of the establishment of such a court; *The Status of the International Court of Justice* (New York, Oxford University Press, 1916; v, 93 pp.), reproducing a pamphlet by the same author, originally printed in 1914 by the American Society for the Judicial Settlement of International Disputes; William Ladd's well-known *Essay on a Congress of Nations* (New York, Oxford University Press, 1916; i, 162 pp.), which was published in 1840; and Grotius' *Mare Liberum* (New York, Oxford University Press, 1916; xv, 83 pp.), which is here accompanied by an English translation by Ralph van Deman Magoffin, of Johns Hopkins University.

Le Droit International Ouvrier (Paris, Libraire de la Société Sirey, 1913; viii, 385 pp.) by Ernest Mahaim, professor at the University of Liége, is the outcome of a series of lectures which the author by invitation delivered at the University of Paris in the academic year 1911–12. It is divided into three parts, relating respectively to the treatment of workmen living in a country other than their own, to laws for the protection of laborers, and to treaties made for the regulation of labor. The first part embraces immigration; and in this matter it is interesting to note how similar have been the changes in policy in

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certain countries, such as the United States and the British colonies. At the outset all kinds of immigration were encouraged, including Chinese, Hindoos, Polynesians, and orientals in general. Now all is changed, and the white laborers seek to exclude the rest. The same tendency is seen in Europe. A noteworthy case, apparently not noticed in the volume before us, is that of Argentina, the declaration in whose constitution, made as early as 1860, in favor of European immigration, has always been construed and applied as inhibiting any other. Measures of this character seem, however, to fall rather within the domain of domestic legislation than in that of international law. It is in the third part of the volume that we enter the sphere of what may properly be called international. Here a brief historical narrative is given of the origin and development of the idea of the international protection of laborers. An account is also furnished of the treaties that have been made on the subject, including the two conventions of Berne of 1906 relating to the prohibition of the use of phosphorus in certain ways and to the interdiction of night labor by women.

Several years ago Professor Bernhard Harms began the publication of the *Probleme der Weltwirtschaft* under the auspices of the Royal Institute for Marine Commerce and World Economics at Kiel. The twenty-third monograph in this series, *Die Idee der Universalökonomie in der französischen wirthschaftswissenschaftlichen Litteratur bis auf Turgot* (Jena, Gustav Fischer, 1915; 204 pp.), by Dr. Ernst Oberfohren, is an interesting study of the development of the concepts of world economics in France. A part of the book had already appeared in Professor Harms' *Weltwirtschaftliches Archiv*. The author begins with a sketch of the classical and medieval views on the subject, and then discusses in detail the work of Bodin and his school. He here calls attention to a number of interesting earlier French authors like Jean d' Arrérac, François de Rosières, Estienne de la Boëtie, Claude d' Expilly, and especially Emeric Crucé, whose "*Le Nouveau Cynée*" has recently been reissued in Philadelphia by Mr. Thomas Willing Balch. In the chapter dealing with the seventeenth and part of the eighteenth century the author treads on more familiar ground, although the pages devoted to Gournay and Cliquot-Blervache are noteworthy. The book closes with a fresh study of the Physiocrats from the point of view of free trade and world economics.

A rather neglected and much misunderstood phase of the work of the Physiocrats is treated by M. Léon Cheinisse in a monograph *Les Idées Politiques des Physiocrates* (Paris, Arthur Rousseau, 1914; ix, 192 pp.). M. Cheinisse, in the preface, calls attention to the fact that Professor

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Maxime Kovalevsky has really, because of his polyglot knowledge, exhausted the literature of the subject. M. Cheinisse points out that the political theories of the Physiocrats were a logical consequence of their economic principles. He quotes a passage from one of Quesnay's manuscripts which shows him to have been the first exponent of the economic interpretation of history. The author claims that the Physiocrats were really the first to call attention to the errors in Montesquieu's theory of the separation of powers, and incidentally remarks that American political experience has proved the breakdown of that theory. Perhaps the best feature of the work is its clear distinction between the political absolutism for which the Physiocrats are usually supposed to have stood, and the "legal despotism" which they actually taught. This despotism, M. Cheinisse maintains, was simply the political side of their doctrine of economic natural rights. The monograph is a valuable contribution to political as well as economic theory.

A study in Ohio finance begun several years ago at Cornell has now been completed by Professor Charles Clifford Huntington, under the title *History of Banking and Currency in Ohio before the Civil War* (Columbus, The F. J. Herr Printing Company, 1915; 312 pp.), and reprinted as a separate volume from the *Ohio Archæological and Historical Quarterly*. The book is a scholarly performance, based upon a study of government documents and periodical literature. Professor Huntington compares especially the independent and the free banks on the one hand, and the branches of the state bank on the other. The state bank in Ohio was distinguished from the Indiana bank by being owned and operated entirely by private individuals. Professor Huntington finds that it was superior to the so-called stock banks because of the safety-fund scheme. He also indicates the reasons why the safety-fund plan as practised in Ohio did not meet with the comparative failure of the same system in New York. A number of valuable statistics and graphs are added in the appendix. As the book is unfortunately lacking in any distinction of style it will be read only by the special student.

The portly volume by J. E. Kingsbury on *Telegraph and Telephone Exchanges: their Investment and Development* (New York, Longmans, Green and Company, 1915; 558 pp.) is intended primarily as a history of the technical development of the telephone and as such is of importance in the first instance to the physicist and the engineer. Mr. Kingsbury devotes several chapters toward the close of his book to economic problems, however. In chapter xxx we find an illuminating discussion of the economic principles underlying telephone rates. The

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chapter entitled "Economics of the Telephone" is disappointing. Not much better is the chapter on the telephone and the governments, where a plea is made for the continuance of private ownership and management. To the ordinary student perhaps the most striking parts of the book are the evidences of the overwhelming rôle played by the United States. In the valuable appendices containing telephone statistics of the world, we find, for instance, that on January 1, 1914, the United States had over 64 per cent of the total number of telephones in the world and over 85 per cent of the gross annual earnings in the world. No wonder, then, that the book deals so largely with the results of American experience.

C. E. Grunsky's *Valuation, Depreciation and the Rate-Base* (New York, John Wiley and Sons, 1917; viii, 387 pp.), like most of its predecessors in the field of public-utility regulation, is written by an engineer. But the discussion goes beyond the strictly technological problems of physical valuation to the broader questions of public policy. The chief merit of the book must be sought, however, in its treatment of engineering rather than economic problems. Perhaps the most original contribution is a chapter on "The effect of the non-agreement between actual and probable life upon the determination of depreciation." Here the author shows the inaccuracy of calculations based on the assumption that all physical units fail at exactly the end of their "probable" term of life. In his discussion of rate regulation, he inclines to original cost as the proper rate-base. But in fixing the rate of return, he would include not merely interest on the investment, but "some additional allowance, perhaps generally less than five per cent, unless conditions are unusual, as a reasonable participation in the general prosperity of the community (this in lieu of appreciation) plus some percentage allowance on the reasonable cost of operation (not including in this cost the interest on the invested capital)" (page 161). Unfortunately, the author gives almost no consideration to the many objections to such a liberal allowance. He repeatedly urges that the utility should be given "some reasonable share in the general prosperity." It may be questioned whether such general assertions really throw any new light on the subject.

Professor Paul F. Reiff's study of *Friedrich Gentz, an Opponent of the French Revolution and Napoleon* (Urbana, University of Illinois, 1912; 159 pp.) is readable, and useful for those who cannot use the French and German sources; but it is not a contribution in any particular to our knowledge of the brilliant secretary of the Congress of Vienna, except in the section on "Gentz's Political Theories."

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Mr. Reginald Lennard's monograph on *Rural Northamptonshire under the Commonwealth* (Oxford, Clarendon Press, 1916; 135 pp.) is an analysis of surveys of crown estates made in the middle of the seventeenth century. In several cases it has been possible to compare earlier and later documents relating to the same manor.

In an admirable study entitled *Economic Notes on English Agricultural Wages* (London, Macmillan and Company, Limited, 1914; ix, 154 pp.), Mr. Lennard, who is lecturer in modern history at Wadham College, discusses the desirability of a minimum wage for agricultural laborers. He considers whether agricultural wages in England can be raised without producing disadvantages that will outweigh the benefits. After a careful statistical treatment of English agricultural wages in general and of divergences in particular districts, Mr. Lennard comes to the conclusion that minimum-wage regulation is possible and desirable, provided it be accompanied by vigorous encouragement of small holdings and by careful safeguards against unemployment. Mr. Lennard's book deserves praise for its lucid style and its careful attention to form of presentation. Such qualities are conspicuously absent from most of the recent American contributions to economic topics.

The notion that the Black Death caused a revolution in the management and tenure of land in England is hard to eradicate. Of the several studies of local history showing the untenable character of this notion, none has presented a mass of material organized in so striking a way as Miss A. Elizabeth Levett's *The Black Death* (Oxford, Clarendon Press, 1916; vi, 220 pp.), an account of the manors of the Bishopric of Winchester in the fourteenth century. It shows that the decade following the Black Death is marked by evanescent changes only, with a rapid return to the status of 1348. The changes ordinarily ascribed to the disturbances following the pestilence were under way long before the Black Death, and the culmination of the process was reached only when these disturbances had subsided. Other causes than the Black Death, therefore, must be sought to explain these changes. Miss Levett's analysis of these causes is superficial and unconvincing. She has introduced from the Pipe Rolls abundant evidence significant for the purposes of this inquiry, but has overlooked its significance. The change in tenure was not so much a change from a system of rents in labor and kind to a system of money rents, as a gradual abandonment of the attempt to collect the full customary rent from the land. On these manors money payments were usually required from the serfs in case the labor which they owed was not required on the demense. More labor was regularly "sold" than performed. The striking fact about the

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commutation of services is that the villains paid much less money in commutation of their labor than the value of this labor when it was "sold" to them under the traditional system. The circumstances under which commutation was effected indicate the reasons for this decrease in the rent paid: frequently tenements were deserted when the bailiff attempted to exact the ordinary rent, or heirs refused to take up land, and the holding had finally to be leased for what it would bring. Sometimes all the services of several virgates were commuted at a rate below their value *causa paupertate*, or services were simply excused, on account of the poverty of the villains, or their lack of oxen. The ordinary holding was no longer sufficiently productive for the maintenance of a family and the payment of rent which had been fixed at an earlier date. The rents and services were reduced because of the obvious inability of the holders to pay. There was no other means of checking the desertion of the land.

In *Social Life in England, 1750–1850* (New York, The Macmillan Company, 1916; ix, 338 pp.) Professor F. J. Foakes-Jackson has presented in book form a series of Lowell lectures delivered in March 1916. The plan of the lectures was distinctly new; and what is equally interesting, it was worked out with singular success. That plan was to discard nearly all the material on which studies of social England have hitherto been based, and to rely on the works of such writers as Wesley, Crabbe, Gunning, Creevey, Dickens, Thackeray and Trollope. It is consequently England as depicted by diarists and novelists that the author presents in these pages. The book contains little that is distinctly new; yet it can be turned to excellent service by teachers of English history. It will help them realize English conditions between 1750 and 1850 from a new point of view. Mr. Foakes-Jackson's wide reading and local knowledge add to the success of his interpretations. At some places he might well have drawn more on his own stores. Somewhat more detail about Tyburn tickets in the sketch of Margaret Catchpole, for instance, would have been acceptable; for Tyburn tickets constituted an English eighteenth-century institution that seems never to have found a place in the American colonies.

Mr. Montague Fordham's *A Short History of English Rural Life* (London, George Allen and Unwin, Limited, 1916; xvi, 183 pp.) is based frankly on the writings of Prothero, Vinogradoff, Oman, Jusserand, Hasbach, Slater, Tawney, Sidney and Beatrice Webb, Cunningham, and other recognized authorities on the history of English rural economy. But Mr. Fordham has obviously drawn quite largely on his own observations of contemporary political, economic and social conditions in rural

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England; and the result of his study and observation is an admirably planned, well written, and most serviceable little book, that will be welcomed by every teacher of English history, and in particular by those whose field extends from the Revolution of 1688 to the beginning of the great war. Mr. Fordham traces the various changes in the economy and face of rural England from the early days of feudalism to the beginning of the nineteenth century, by which time rural society had assumed its present-day stratification—landlords, tenant farmers and laborers. His sympathies are always with the peasantry, or laborers. "Even before the outbreak of the great war," he writes, "the remnants of the bastard feudalism that arising in the eighteenth century had done so much harm to our village life, was rapidly dissolving. There was a widespread feeling that we were at the beginning of a new era." In view of his illuminating discussion of the position, functions and policies of the governing class in rural life, it is a little remarkable that nowhere does Mr. Fordham give any description of the administration of justice in English villages in the days when nearly every squire who was of the county magistracy had a justice room in his house, and when there was no county constabulary.

In his book on *The Administration of Justice in Criminal Matters* (Cambridge, at the University Press, 1915; x, 235 pp.), Mr. G. Glover Alexander had three aims. They are (1) to survey and make popularly understood the administration of criminal law, and to show the connection between criminal law and the Home Office and Parliament; (2) to make clear the spirit in which the English criminal law is administered; and (3) to write a manual which shall serve for newly-appointed justices of the peace, superior police officers, and also for a large class of general readers who are interested in subjects bordering on the domain of law—history, politics and sociology. He has succeeded admirably in each of these aims, and particularly in writing for students of the working of English institutions. For such students no better book on the administration of justice in England has been published since Maitland wrote his manual on *Justice and Police* for the English Citizen Series thirty years ago. Mr. Alexander's book is on a larger scale than the manual in the Citizen Series, for he goes more fully into detail and skilfully weaves much history into his descriptions of the functions of the police and of the courts. Moreover, since Maitland wrote his manual, the court of criminal appeals has been created, and there have been many changes in criminal law and many improvements in prison administration.

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Archbishops, cardinals and clergymen, poets and physicians, as well as politicians and statesmen, are of the gallery in Mr. George U. E. Russell's admirable *Portraits of The Seventies* (New York, Charles Scribners' Sons, 1916; 485 pp.). The last group, almost as a matter of course, is most numerously represented. In describing these men Mr. Russell is obviously at his best; and it is this group, which includes Disraeli, Gladstone, Argyll, Hartington, Bright, Chamberlain and Labouchere, that will give the book its strongest claim on American students of English politics of the period from the second reform act to the incoming of the Liberal administration in 1905. It will attract readers because of the freedom with which most of the portraits are drawn. Incidentally Mr. Russell's book is a serviceable contribution to the history of English political parties.

Mr. T. H. S. Escott's *Great Victorians* (London, T. Fisher Unwin, Limited, 1916; 384 pp.) is a book in much the same general class as Mr. Russell's *Portraits of the Seventies*. It is much wider in its range, both as regards time and men, than Mr. Russell's book, and much more gossipy and anecdotal. As a contribution to English history the chief value of Mr. Escott's book lies in its sketches of bishops and generals, sketches which bring out the changes for the better in the church and the army since the early years of Queen Victoria's reign.

Arthur Anthony Baumann's *Persons and Politics of the Transition* (New York, The Macmillan Company, 1916; xiii, 281 pp.) is a collection of sketches of statesmen and politicians at Westminster, and of studies of political changes in England, most of them originally written for the *Saturday Review*, the *Fortnightly Review*, or the *Edinburgh Review*. The men of whom Mr. Baumann writes are Goschen, Peel, Randolph Churchill, Balfour, Hartington, Labouchere and Carson. The political subjects he discusses are the Collapse of the House of Lords, the Apparition of Democracy, the Parliament Act, Conservation and Christianity, and Opposition or Coalition—this last as it confronted England in the early days of the war. "Am I presumptuous," he asks, "in hoping that if I do not interest the present generation I may be of some small use to the future historian?" This modest wish of Mr. Baumann's will probably be realized, for the future historian can learn at least two things from these pages. He can learn that Mr. Baumann regarded the surrender of the House of Lords in 1910 as one of the gravest blunders in history, and a surrender quite unnecessary; and that Mr. Baumann had little but contempt for the House of Commons of the decade preceding the great war, that he regarded its members as "paid and gagged," as slaves of the cabinet.

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From at least three points of view, interest attaches to the late Miss Julia Wedgwood's *Personal Life of Josiah Wedgwood* (London, Macmillan and Company, 1915; xlv, 388 pp.). It is an excellent study—sympathetic but not uncritical—of an eighteenth-century industrialist; it throws additional light on the era of canal building; and more than any other English industrial biography or history, it informs us of the working of the eighteenth-century laws prohibiting the emigration of English artizans. The elder Wedgwood, the founder of Etruria and of the family, was the moving spirit in the construction of the Trent and Mersey canal, a task demanding all his resourcefulness and energy. Though Wedgwood was a liberal in religious belief, and a radical in politics, he was one of an association of manufacturers which made a standing offer of fifty guineas to informers against artizans emigrating to America or to France. One of his two pamphlets is entitled, "To the Workmen in the Pottery, on the subject of entering into the service of Foreign Manufacturers." In this pamphlet Wedgwood, who was never out of England in his life, first depicted the horrors of home-sickness, "a disease of the mind, peculiar to a people in a strange land, a kind of heart sickness and despair," and then made a plea for home industries and an appeal to patriotism.

Mrs. Russell Barrington's edition of *The Works and Life of Walter Bagehot* (London, Longmans, Green and Company, 1915. Ten volumes; ix, 310; v, 358; v, 384; v, 339; v, 366; vi, 352; v, 310; v, 254; xiv, 348; viii, 478 pp.) differs from the collected works of Bagehot so painstakingly edited by Mr. Forrest Morgan, and published at Hartford, Connecticut, in 1889, only in the number of Bagehot's writings included in the new collection. Mrs. Barrington was Bagehot's sister-in-law, and in 1914 published an admirable biography of him, which is included in the collected works. One volume is devoted to Bagehot's articles in *The Economist*, not hitherto reprinted, which Mrs. Barrington regards as containing utterances quite as valuable as any to be found in Bagehot's more deliberate and sustained writings.

Professor P. C. Phillips' work on *The West in the Diplomacy of the American Revolution* (Urbana, University of Illinois, 1913; 247 pp.) is especially valuable for the emphasis which it puts on our relations with Spain in the critical years 1763–1783. It serves as a corrective to the undue influence that Doniol's classical work has had on American historians. Phillips shows that while France had some misgiving in encouraging a powerful independent state in America, the prospect was doubly disconcerting to Spain. Though the latter power joined France in her attack on the British Empire, she had no generous feelings toward

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America as France had. She neither became our ally during the war, nor entered into treaty relations with us at the close of the war. She acted as a drag on France, and had it not been for Vergennes' patient championship of the United States, even to the point of risking the aid of his ally across the Pyrenees, there would have been little chance of our gaining the splendid domain which fell to us by the peace of 1783. In fact the book is a panegyric of Vergennes, who has not received the gratitude he deserves from American historians, because at the end he had to make concessions to Spain on the subject of our western claims. However, granting that Vergennes may not have had due recognition, few American historians will go so far as to endorse Professor Phillips' repeated assertion that "Vergennes signed the treaty [of 1778] that called into life a new nation." We think the new nation was born with the Declaration of Independence. A serviceable point in Professor Phillips' book is the demonstration of the spuriousness of the *Mémoire historique et politique sur Louisiana* attributed to Vergennes, and published in Paris in 1802, a work which Professor Turner used as genuine in his study on *The Policy of France towards the Mississippi Valley in the Period of Washington and Adams* published in the *American Historical Review* (volume x).

After reading E. A. Steiner's latest volume on America and its problems, one is more than ever disposed to emphasize the distinction between the American of foreign birth and the hyphenated American. Though born in Austria, Mr. Steiner is an American citizen by conviction as well as in law, and *Nationalizing America* (New York, Fleming H. Revell Company, 1916; 240 pp.), like his earlier books, is full of a spirit of robust Americanism. Believing intensely that nationalism is necessary to eventual super-nationalism, he recognizes clearly the evils that are associated with it. An immigrant himself, his conception of Americanism is naturally different, and, it must be added, broader, than that of most native-born Americans. He has been saved from the error of viewing the immigrant as a mere recipient of the nation's bounty. He knows that the immigrant is a benefactor as well as a beneficiary, capable of making his contribution to the changing complex that we call Americanism.

Ernest Peixotto, a traveler-artist, has given some impressions of the southwestern United States in *Our Hispanic Southwest* (New York, Charles Scribner's Sons, 1916; xx, 245 pp.). The illustrations show much of the quaintness to be found in the regions which once were under Spanish dominion and still retain much that is Spanish in character. The text is composed of travel notes.

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The *Memoirs of Li Hung Chang* (Boston, Houghton Mifflin Company, 1913; xxviii, 298 pp.), a work edited by William Francis Mannix, with an introduction by John W. Foster, purports to be a collection of selected fragments. It is stated that after Li's death his writings were collected by a provincial governor, that some of them were translated, and that from "this large mass" the "notes" embraced in the present volume were offered to the public. It seems, besides, that the making of the "selections" was influenced by the circumstance that the translators were "sorely distracted in the matter of determining dates," as the result of which they omitted many entries. Hence, the volume does not present all that the great Chinese statesman wrote upon the various titles embraced in it, "or even a larger portion," but only what the editor believed to hold "the widest and most enduring interest." These statemens are far from reassuring. They certainly do not lead us to expect a systematic, consecutive, comprehensive narration or treatment of Li's extraordinary career. But an examination of the text raises a much graver question. One example will suffice. Two chapters purport to contain Li's jottings during his visit to the United States in 1896. Not a single date is given, not even the year; but they conclude (pages 210–211) with some ornate paragraphs which Li is said to have "written at San Francisco, the day before his sailing for China," beginning: "Today my friends took me out toward the Golden Gate" etc. The fact, however, is well known that Li never was in the state of California; that he came to the United States from Europe, landing at New York; and that on his journey to the Pacific he avoided California, returning to China by way of British Columbia. His reasons, as explained in a statement published throughout the United States on September 3, 1896, were (1) the grievances of his countrymen in California, and (2) his desire to cross the Pacific on the steamer "Empress of China," which he in fact boarded at Vancouver, B. C., on September 13, the day before sailing. The question therefore necessarily arises, how Li could then have supposed himself to be in San Francisco, engaged in making an excursion with his friends to the Golden Gate. He was always known to be a remarkable man, but, as presented in his "memoirs," he was truly superhuman, or else sometimes wrote in a trance.

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